

Excerpts from...

HUNTING SEASON

Will the legal recruiting industry ever rein in the maverick headhunters with whom it has a love-hate relationship?

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...Headhunters – viewed as anything from godsend to pests by law firms looking to enlarge their ranks – have earned a mottled reputation within the legal community. While many managing partners will swear by the services of one or two specific headhunters, other will swear never to use a recruiter again.

During the hiring frenzy of the last two years, law firms had little choice but to turn to recruiters to keep their associate ranks staffed. As the associate market has cooled, however, law firms and legal recruiters have begun to place renewed emphasis on character and reputation of the headhunters they use, in addition to a candidate's book of business.

Legal headhunting evolved as its own specialty during the 1970's, when the executive search business sprouted a cousin known as legal recruiting. Today, the business is considered by some still in its infancy, with all the attendant problems and accessibility of a young profession, and no mandatory licensing or training to ease some of these problems.

...Legal recruiting has only one organization that resembles the California State Bar. The National Association of

Legal Search Consultants, based in Chicago, has a three-page code of ethics – as well as an annual membership fee of between \$395 and \$595 – but many recruiters say it has almost no clout when it comes to enforcement.

“The National Association of Legal Search Consultants...has a code of ethics for the legal search profession, but there are members who regularly violate the rules,” **Delia Swan** of Los Angeles' **Swan Legal Search** says.

...Conflicts and problems in legal recruiting range from innocent mistakes to not-so-innocent transgressions – and both types of problems often lead to fee disputes.

In addition, guidelines set up by recruiters to decrease the likelihood of fee disputes are sometimes abused. Take, for instance, the doctrine of “first in time, first in right,” which dictates that the recruiter who first sends a candidate's resume to a law firm is entitled to at least a cut of the placement fee if the firm hires that attorney. In some instances, however, a canny recruiter will indiscriminately fire a candidate's resume to law firm fax machines up and down the state, thereby securing for

him or herself at least a technical “first in time” fee guarantee.

And in some cases, the headhunter giving such liberal business to Kinko’s to ensure a fee had no authority to inform every major law firm of the candidate’s quest for a new position.

Some of these unhappy attorneys may not even have known they were falling into the clutches of an unethical headhunter, **Swan** says.

“We have seen candidates respond to an anonymous job posting on the Internet, only to be papered around town without their knowledge and to their surprise,” **Swan** says.

According to most headhunters and the association’s code of ethics, candidates should be referred to firms only with their “express prior consent.” This particular section of the code is one of the most widely violated by rogue recruiters, according to **Swan**. Almost inevitably, the situation results in a fee dispute between the busily faxing headhunter and the recruiter whom the department associate or partner officially chose.

“There are legal search consultants out there that are very shady, and they employ underhanded methods,” Julie Qureshi of Solutus Legal Search in Palo Alto says.

The six-month rule that applies to placement fees also applies to a recruiter’s freedom to find candidates within a firm where it has recently placed an attorney. The association’s ethical code dictates that a recruiter may not search for new candidates within a firm where it has recently placed a new lawyer – essentially keeping the fox out of the henhouse for law firms, even if that fox initially entered bearing a new hen.

Law firm recruiting directors are understandably unenthused when a

headhunter, after placing an attorney with a firm, proceeds to deplete the ranks of that same firm.

Their displeasure rarely leads to any kind of effective action, however.

“Some law firms will not look at a candidate’s resume if it is submitted by one of these disreputable recruiters. Some law firms simply won’t work with shoddy recruiters,” says **Swan**. “Others will take a good resume from any recruiter, whichever delivers first, right or wrong.”

The duration of this courtesy cease-fire is listed at six months in the association’s code of ethics but sometimes varies according to circumstances. Some recruiters place the stalemate at six months for associates, but a year for partner placements.

...In lieu of a strong disciplinary influence from law firms or the association, a tightening of the legal market may be the only way to eliminate some of the industry’s more unworthy competitors.

“As the economy turns, it is likely that the unethical recruiters will be weeded, and the reputable, ethical ones will remain,” **Swan** says.