



THE NEW ELLIS GROUP

Monday Monday

Connecting the Dots with Karen Kaplowitz



*Helping you create and reinforce the habits of successful career building,
gleaned from my work as a business development strategist, trainer and coach*

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Lateral Fatigue: The Clients' Perspective. Given the surge of lateral moves and mergers, and resulting disruptions, some clients are focusing more on the issue of the long-term stability of the lawyers they are considering for significant new matters. When clients get "lateral fatigue", you can expect that more interviews and RFPs will contain questions along these lines:

- For each lawyer, list the dates of his/her tenure with the firm, prior firms or other employers.
- Please list and describe similar matters on which each lawyer has worked with the team leader.
- On how many prior similar matters has the team as a whole worked together?
- For each proposed lawyer, please list their current status with the firm. For partners, please indicate whether the partner is an equity or non-equity partner. For any non-equity partner, counsel or staff attorneys, please identify the term of any current employment contracts.
- Will each proposed lawyer affirm that they are not currently in discussions with any other law firm about changing firms?
- Will each lawyer and the firm agree to indemnify the client in the event that any of the lawyers terminate their work on the matter, other than at the request of the client or for a health reason, and a replacement lawyer is required to replace the departing lawyer?

Lateral moves and mergers are often very disruptive and costly for clients who are likely to factor in whether they will face such disruptions when choosing counsel to handle new matters. Long tenure with one firm may be the new competitive advantage for lawyers.

Example: After a law department endured a number of disruptions on significant matters, one from a major law firm's bankruptcy and several when lead outside counsel made voluntary lateral moves, the general counsel asked her staff to evaluate the impact of these disruptions on the company, including the costs of delays and added oversight of outside counsel. The general counsel concluded that it would be worthwhile to reduce such costs and risks and instructed her group to give preference in new assignments to stable lawyers. The law department started to look at the employment history of each prospective outside lawyer. The law department also informed its firms that the company wanted assurances that it would be held harmless from extra expenses due to change of personnel on its projects. The general counsel also asked the law department to gather as much data as possible from other companies on which of their law firms provided the most continuity of personnel, consistently brought together the best resources, and acted in the most collaborative way.

Are you taking for granted that because so many lawyers are making lateral moves that clients will not penalize you for the extra costs and uncertainty caused by your own moves? Are you prepared to address "lateral fatigue" on the part of your clients? Please share with me how these client concerns are impacting you and your firm, even if you are not a new attorney in your firm, and look for my recommendations on March 3, 2014 for dealing with "lateral fatigue".

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