



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*

Volume 12, Issue 10

May 7, 2018

## **Increasing Client Satisfaction When Outside Counsel Make Lateral Moves**

Law firm partners continue to make lateral moves in record numbers individually and in groups. Keeping clients satisfied in the process is a major concern for every lateral candidate whose appeal is based on the likelihood that their clients will follow them to a new firm. There is a lot of [lateral fatigue](#) among clients. In a 2017 [article](#), Michael Roster, Stanford's former general counsel and co-chair of the ACC Value Challenge, forcefully laid out client concerns about the effects of lateral moves, especially on costs and conflicts. There is tension all around and partners are at risk of losing clients if they don't manage the situation well.

- Lateral candidates want to know their clients' views of potential new firms but not be exposed to their partners for liability for breach of fiduciary duty or violation of ethics rules.
- New firms want to evaluate the strength of lateral candidates' books of business.
- Clients expect their lawyers to put their interests first and need information on disruption, costs, teams, and conflicts.

There is a real lack of transparency for clients in the current process of lateral moves. Lateral candidates sometimes skirt the issue by asking clients their "opinions" of other firms, without asking the ultimate question whether the client would move their business. Some hiring firms, keen to confirm if a candidate's clients will follow the lateral, "check references" of candidates with clients to gauge the strength of the relationship. Meanwhile, law firms which are trying to discourage valuable partners from leaving and taking clients are not inclined to change the dynamics.

A panel on lateral recruiting at the recent conference of the National Association for Law Placement, [NALP](#), discussed whether clients could force a change in these dynamics. The moderator, Valerie Fontaine, a Los Angeles legal recruiter, asked the panel and audience whether clients, when they retain law firms, could require the firms to agree that lawyers with whom they work are free to discuss all issues relating to the staffing of their matters, including succession planning and lateral moves, without fear of a claim by the law firm of breach of fiduciary duty? Would a firm that allowed its partners more freedom to discuss lateral moves demonstrate a respect for its clients' interests and have a competitive advantage?

**Example:** A general counsel was tired of the disruptions and costs when outside counsel made lateral moves especially when they did not consult her in advance. She was pleasantly surprised when one firm bidding to be on the company's approved list informed her that lawyers working on the company's matters would be free to consult with the company on all staffing matters including succession planning and potential lateral moves. The general counsel was impressed that the firm was putting the company's interests ahead of the law firm's interest in retaining her business or preventing partners from making lateral moves. The company put the firm on its list and then asked all its other firms to make the same agreement.

Is it time for law firms to acknowledge that some partners will make moves and to make it easier for them to protect their clients' interests when they do so?