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Headhunter Litigation Puts Spotlight on Secretive Industry Focused on Partner Moves

With new headhunters entering the industry and big money that can be made as partner pay packages increase, the competition for candidates and credit has gotten fierce.

By Jack Newsham | December 11, 2019



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It's a litigious time for law firm recruiters.

In recent months, two high-profile lawsuits were filed over fundamental concerns in the legal recruiting industry. One suit was filed, and then settled (<https://www.law.com/nationallawjournal/2019/11/22/major-lindsey-settles-suit-against-rival-recruiter-mlegal-and-former-partner/>), between headhunting firms Major, Lindsey & Africa and Mlegal Group over noncompetes and competition for clients. The other suit was filed by Boston Executive Search Associates against Freshfields (<https://www.law.com/americanlawyer/2019/11/19/recruiter-sues-freshfields-claiming-credit-for-clearly-rainmakers-move/>) Bruckhaus Deringer over allegedly cutting the headhunters out of a lucrative lateral fee.

These suits are the latest disputes to be aired publicly in a field where confidentiality reigns and no one wants to be seen as a troublemaker.

With new headhunters entering the industry and big money that can be made as partner pay packages increase, some recruiters say the competition for candidates and credit has gotten fierce. (Four partners at various New York law firms put the number of cold calls and emails from recruiters at between 1 and 12 per week.)

Now private disputes over fees are flowing over to public court dockets.

Given occasional competing claims to placement fees and difficulties that recruiters have in other industries, "it's surprising there are not more lawsuits between law firms and recruiters," observed one recruiter, Ross Weil of Walker Associates, adding his firm has "had no reason to ever be litigious" with clients.

Recruiters who say law firms cut them out of payments, even when they make the introductions to key laterals, are a top theme in recent litigation. That includes the suit that Boston Executive brought against Freshfields over the lateral partner group led by Ethan Klingsberg. In 2017, the same recruiting firm also sued Simpson Thacher & Bartlett over an allegedly unpaid fee; the case settled (<https://www.law.com/newyorklawjournal/2018/09/19/simpson-thacher-settles-with-recruiter-over-sullivan-cromwell-hire/>) in 2018.

In July, New York-based Austin & Devon Associates sued (<https://www.law.com/newyorklawjournal/2019/07/10/recruiter-sues-windels-marx-seeking-3-million-for-ip-group-placement/>) Windels Marx Lane & Mittendorf for a \$3 million fee it said it was entitled to; the parties have agreed to arbitrate that matter. In Los Angeles, Kossoris Search is about to go to trial (<https://www.law.com/texaslawyer/2019/09/09/katten-cant-escape-recruiters-case-over-dallas-groups-placement-fee/>) against Katten Muchin Rosenman over a placement fee for a group with a \$20 million book of business

One recruiter's unpaid-fees suit filed this year had an unusual twist: the recruiter wasn't named (<https://www.law.com/texaslawyer/2019/06/21/search-firm-sues-2-kilpatrick-townsend-lawyers-alleging-unpaid-placement-fee/>), possibly in a bid to preserve its reputation. An entity called USPLS, which purports to have been assigned a claim by a headhunter, sued two partners from Kilpatrick Townsend & Stockton's Houston office, claiming they breached a yearlong search contract by cutting the recruiter out of a deal to launch their firm's Houston office. Law.com has since reported (<https://www.law.com/texaslawyer/2019/12/10/in-suit-against-kilpatrick-townsend-partner-pair-mystery-recruiter-idd-as-james-wilson/>) that the unnamed recruiter was James Wilson of Partners Legal Search.

Competition among recruiting firms is also an element in some lawsuits. The relationships a recruiter builds on the job can be extremely valuable, as the suit between recruiter Lauren Drake of Mlegal and her former firm Major Lindsey made clear.

Unlike lawyers, who are generally prohibited by ethics rules from agreeing to limit their practice in any way, some recruiters are bound by noncompete agreements.

While noncompetes are not universal in the recruiting industry, MLA said in its suit that Drake had signed one that prevented her from working in legal recruiting within 50 miles of the Major Lindsey offices where she'd worked over the two years before she left, or from working with candidates or law firm clients that she learned about at Major Lindsey for an entire year. No such agreement applied to two other Major Lindsey alumni who went to work at Mlegal, however, according to the suit.

Code of Ethics

Today's competitors can be tomorrow's collaborators. Deals to split fees on lateral placements where multiple recruiters played a move often arise, said several recruiters, as is the feeling that the other recruiter is getting too big a slice.

A falling-out over such agreements was at the core of a dispute that was settled last year (<https://www.law.com/texaslawyer/2018/08/23/recruiters-suit-sheds-light-on-fierce-lateral-market-in-texas/>) in Texas between Carrington Legal and Johnson Downie, two big-name recruiters in the Lone Star State.

Though much is up for negotiation, there are standards within the industry. For example, the National Association of Legal Search Consultants, which lists 197 members in its online directory, has a code of ethics (<https://www.nalasc.org/code-of-ethics/>) that prohibits recruiters from "placing out" of a firm they just placed a candidate into for a six-month period.

Sometimes, such restrictions are enshrined in the contracts that recruiters often have with law firms to supply them with candidates. These restrictions, in turn, can prompt lawsuits.

Cole Schotz, a midsize law firm mainly on the East Coast, sued (<https://www.documentcloud.org/documents/6572764-Cole-Schotz-v-Lucas-Group-complaint.html>) Lucas Associates in Manhattan Supreme Court last month for allegedly convincing an associate that Lucas itself had placed at Cole Schotz in 2015 to move again in 2019. Their contract, attached as an exhibit (<https://www.documentcloud.org/documents/6572765-Cole-Schotz-v-Lucas-Group-exhibit-to-complaint.html>), states, "the search firm shall not solicit any of [Cole Schotz's] attorneys for the purpose of placing or seeking to place them at another law firm, corporation or any other organization while this agreement is in effect."

Glenn Kazlow, who is Cole Schotz's general counsel and signed the contract with the recruiting agency, didn't respond to a call seeking comment. The Lucas Group didn't respond to emails.

At the end of the day, while several recruiters' disputes have landed in court, many other headhunters don't want to set foot in a courthouse. For them, keeping one's name unsullied is a top priority.

"I'm absolutely never going to get in a lawsuit with a law firm," said Linda Ginsberg, a New York-based recruiter at the firm Ginsberg Partners. "It's ridiculous for one individual to sue a law firm and expect to have an ongoing, high-road reputation in the industry."

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Major Lindsey Settles Suit Against Rival Recruiter MLegal and Former Partner
(<https://www.law.com/nationallawjournal/2019/11/22/major-lindsey-settles-suit-against-rival-recruiter-mlegal-and-former-partner/>)

Katten Can't Escape Recruiter's Case Over Dallas Group's Placement Fee
(<https://www.law.com/texaslawyer/2019/09/09/katten-cant-escape-recruiters-case-over-dallas-groups-placement-fee/>)

In Suit Against Kilpatrick Townsend Partner Pair, Mystery Recruiter ID'd as James Wilson
(<https://www.law.com/texaslawyer/2019/12/10/in-suit-against-kilpatrick-townsend-partner-pair-mystery-recruiter-idd-as-james-wilson/>)

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