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AK ARI KAPLAN
ADVISORS

The Rise of Innovation in a Hyper-Competitive Market for Legal Talent

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About Ari Kaplan



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Introduction

To understand how leaders in the largest law firms in the U.S. are currently approaching the competitive market for legal talent, Thine, a technology company that develops and deploys pre-hiring and integration assessments, engaged Ari Kaplan Advisors to interview a cross section of professionals making decisions about hiring, development, and promotion in an array of organizations. Legal industry analyst Ari Kaplan interviewed chief talent officers along with directors and managers of recruiting from 30 AmLaw 100 firms between September 3, 2021 and November 24, 2021.

Respondents revealed that frustrations caused by static and stale recruitment processes felt particularly acute in the months following the onset of the Covid-19 pandemic. When faced with the inability to meet candidates in person, combined with uncertainty around the impact the pandemic would have on demand for legal services, many firms temporarily suspended or decreased recruiting activities, leading to an overall net decline in hiring. In its most recent report, the National Association for Law Placement (NALP) observed that while “firms made conservative decisions about future talent at a moment when the future was uncertain, in retrospect, some of those decisions may prove to have been too conservative.”¹

Perhaps as the dramatic result of that “too conservative” approach, frenzied lateral recruitment activity germinated practically overnight as firms began hiring in exponentially greater volume. When asked to describe the lateral hire headcount in 2021, one respondent characterized it as “[t]he highest number in our history.” Another said “[t]he market has been insane.” Still another reflected, “recruitment in 2021 is up over 120%, which is partly due to growth in various markets around the world, attrition, and hiring challenges for candidates...it is musical chairs out there.”

One respondent noted that in 2021, recruiting is up by

120%



This trajectory is not likely to ebb anytime soon. “It is trending higher in an aggressive way,” noted one leader. “We typically hire about 30 laterals per year and this year, it will be much higher,” added a colleague.

Firms’ hiring needs can be expected to continue to grow in support of their increasing revenues. By any publicly-reported financial metric, 2021 was tremendously successful for large firms. The Citi Private Bank-Hildebrandt Consulting 2022 Client Advisory reported that in the first three quarters in 2021, “We saw an average revenue growth of 14.7% over the same period of 2020.”² Sustaining that momentum will likely depend heavily on law firms developing the ability to identify and engage lawyers with the experience, endurance, and commitment necessary to meet existing and future demands.³ This is no easy task.

The current talent management systems in law firms appear ill-equipped to accommodate the shifts in the market. Accelerated decision-making, imposed on a process that already severely limits the time for meaningful candidate evaluations, combined with increased volume and staggering associated costs, are fueling an increased focus on innovation in law firms. Consequently, innovation associated with recruitment is under review and on the rise.

¹ National Association for Law Placement, Perspectives on 2020-21 Law Student Recruiting, 4 (July 2021).

² https://www.nalp.org/uploads/NALPPerspectiveson2020_21LawStudentRecruiting.pdf.

Citi Private Bank and Hildebrandt Consulting, 2022 Client Advisory, 5 (January 2022).

³ <https://www4.privatebank.citibank.com/newcpb-media/media/documents/2022-Citi-Hildebrandt-Client-Advisory.pdf>.
id.

The Realities and Challenges of Recruiting in 2021

Entry-Level Hiring Follows Traditional Patterns, Marked By High Volume and Low Yield

Despite an array of innovations at global law firms around the world, recruiting and hiring processes still follow traditional patterns, with most firms selecting the majority of their entry-level lawyers through OCI. While some firms do report using LinkedIn and other employment-related websites, they typically occupy a small percentage of a firm's budget. The heavy reliance on OCI as a primary source of new lawyers is notable because it is typically associated with high volume of interviews, low yields, significant costs, and inherent inefficiencies.

Almost two-thirds (60%) of the interviewed participants are associated with firms that hired at least 25, and often, more than 50 law students in the summer of 2021. To fill these summer classes, participants reported having to interview substantially more candidates than they would ultimately hire due to relatively low yields, both in terms of number of candidates invited back as well as offers accepted. One advised that the firm screened 1,200 students on campus, while another noted "[w]e interview[ed] 1,500 on-campus and invite[d] back 550." And still another, "in 2020, we screened 749 resumes, which does not include 300 write-ins." For most participants, fewer than 40% of screened candidates are invited for callbacks, and about half of those individuals typically receive offers. "The return on our OCI efforts is low and terrible," recalls a talent leader whose firm conducted close to 500 interviews.



60%

of firms hired at least 25 summer associates in the summer of 2021

For those participants hiring for smaller summer associate classes, the efforts associated with low yields were likewise frustrating. One noted that "of the 74 callbacks, we made 17 offers," representing a 23% callback offer rate. A peer shared that their callback offer rate was "historically 35-37%."

60%

of screened candidates are not invited for callback interviews

50%

of candidates invited for a callback receive an offer

At the majority of firms participating in the survey, attorneys spend hundreds, if not thousands, of hours supporting recruitment initiatives. When reflecting on lawyer hours that are devoted to summer associate hiring, “[i]t is a giant number [and it] is the exception that a lawyer is not involved in recruiting for the summer class,” said one participant. “We ask all the attorneys to give us five hours,” added a peer. “The hours are exponential,” noted a third. One participant went on to describe the attorney time as a significant expense that represents an opportunity cost for the firm. When viewed this way, understanding—and managing for—yield is even more critical.

Quantifying The Lateral Numbers

After being consistent for the prior two years, most firms reported a spike in lateral hiring in 2021. On the higher end, firms reported onboarding over 200 associates, with more than half (53%) of the participants adding between 26-75 lateral associates in 2021. For some recruiting professionals, the volume was so significant that there was almost a sense of disbelief, with one respondent reporting that it felt like they had hired a “bazillion” new lawyers.

The number of hours that attorneys devote to interviewing lateral candidates is likewise incredibly high according to the majority of participating firms. “60 hours per position, at six hours per candidate,” estimated one respondent.

In 2021, some firms hired 200+ laterals



Felt like they had hired a “bazillion” new lawyers

Challenges With Engaging Lawyers in the Recruiting Process

Finding a sufficient number of attorneys to participate continues to be a challenge due to the rapid speed of a recruiting process that can feel chaotic at times. For student hiring, “OCI is in the middle of vacation season so we pull people due to availability,” said one participant. For laterals, however, “[o]ur issue is more about faster decision-making because of the speed of the market, and [capturing] consistent engagement from the partners; we want to bring in some more associates, but [partners] are so burned out, they don't want to make time to interview new associates,” explained another.

Externalities and Third-Party Costs: Higher Recruiter Fees, Signing Bonuses, and Referral Fees

To support their lateral growth, firms incurred a variety of expenses, ranging from recruiter agency fees and job postings, to costs associated with attracting and integrating new lawyers. Law firms confessed to using recruitment agencies more frequently than in the past. One leader noted that their firm relied on “more recruiters than I want...but we are too leanly staffed.” Another added, “[o]ur approach is not to use search firms for associates, but we have used them much more this year.”

“ This year has blown our placement fees out of the water in terms of the amount of hiring and the number of agencies with whom we have had to work.



Of those reporting, 43% spent in excess of \$1 million on recruiting fees. “This year has blown our placement fees out of the water in terms of the amount of hiring and the number of agencies with whom we have had to work,” said one participant. “Our budget for recruiter fees dropped in 2020, but our fees will be over \$2 million this year,” added another.

Perhaps more surprising, a number of firms do not track costs associated with recruiter fees, with at least one suggesting that doing so might draw unnecessary attention to the sizable line item, noting “[m]y value is in attracting high-caliber associates and partners, rather than getting beat up over cost; it has been better to fly under the radar on costs up to now.”



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The costs of lateral hiring extend beyond agency fees, with many firms introducing signing bonuses in 2021 to remain competitive. There was a sense that these bonuses may become a standard part of a candidate's compensation package. "We used to only pay *ad hoc* signing bonuses prior to 2021, and now it is expected for every new hire; we are ready to pay a significant signing bonus even if a person comes from a 'lesser' firm because markets are so bonkers right now," a participant said. In terms of the amount, which generally ranges from \$15,000-\$50,000 but can be much higher depending on various factors, one participant described it as "[g]oo-gobs of money," with another calling it "overboard this year," thereby introducing an additional expense to an already costly proposition.

While firms also looked to internal referrals as a way of securing laterals, such hires were not without attendant costs, with 57% of participants reporting having paid referral fees to their attorneys who made an introduction. Such referral fees trended higher in 2021 as well with 13% of participants specifically highlighting the need to increase their referral fee to remain competitive. "Due to the frothiness of this market, we have increased our referral bonus by 40%," said one leader. "We would prefer to give it to our lawyers [rather] than a recruiter," added another as an explanation for the increase.

57%

of participants reported paying
internal referral fees to associates

13%

of participants increased their
referral fees to remain competitive

Unanticipated Increase in Integration Costs

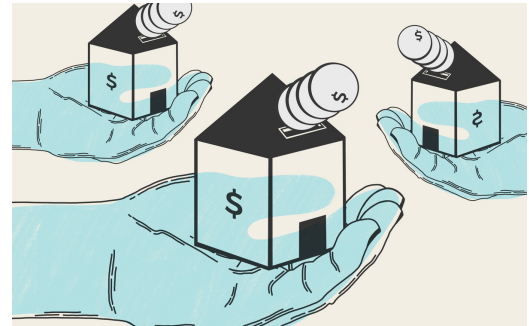
Law firms will likely view the cost of hiring more holistically in 2022, with the calculation not only factoring in the tactical costs of recruiting fees, travel and time, but also of integrating new hires. "These integration costs include the time necessary to get someone organized," said one leader, as well as "lost opportunity costs," according to another. A third of the respondents reported that the cost of integrating a new lawyer can start at \$10,000 and exceed \$50,000. "They are all soft costs and not really hard costs; it is [about] integrating versus onboarding," explained a peer.

Uncertain Costs of Returning to "On-Campus" Recruitment

Firms have traditionally been required to invest heavily in travel and entertainment when recruiting lawyers, with one participant noting that "travel was huge" when calculating expenses. Another participant observed that because OCI travel expenses have traditionally been so substantial, "our costs have dropped significantly." But while firms uniformly saved money on travel costs in 2020 and 2021 due to OCI's virtual nature, some firms are bracing themselves for a return to campus in 2022.

“There are some people who feel that there is a better connection in person,” one participant mentioned. “We hope to return to recruiting on campus and hosting in-person recruiting events,” added a peer.

“ I could have never guessed in 2019 what the hiring market would be like in 2020 and the same was true in the fall of 2020, when anticipating the market in 2021.

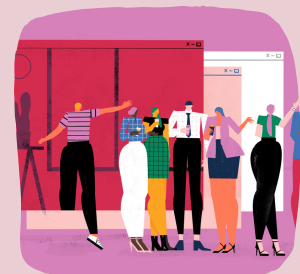


Uncertain Forecast Leads to Budgeting Challenges

With continued uncertainty in the market, budgeting is also likely to be more flexible. When asked to describe the typical variables considered when creating a budget, one leader said, “market factors, prior year spending, current open positions, and related potential fees; it is a guessing game after that.” This guessing game is made even more challenging when you factor in unexpected signing bonuses and increased fees for internal referrals. “We budgeted for 62 laterals in 2021 and hired 165,” reported another leader. “Lateral hiring budgets are such a funny crapshoot; I could have never guessed in 2019 what the hiring market would be like in 2020 and the same was true in the fall of 2020, when anticipating the market in 2021,” offered a colleague.

For lateral hires, in particular, there are also unexpected costs after they have arrived if their actual capabilities do not meet the expectations of the firm. “The senior lateral is more risky because you know less about their training and experience so the screening and diligence need to be more effective,” said a participant. “We need to account for the unknown [in the budget]; it is so unpredictable to map it out,” echoed a peer.

“ The senior lateral is more risky because you know less about their training and experience so the screening and diligence need to be more effective.



Entry-Level Hiring in a Post-Regulated, Pandemic Marketplace

In December 2018, NALP introduced a revised set of principles for law school recruiting. These principles replaced NALP's prior guidelines, which had served as the industry framework for OCI, and relaxed many of the rules around when an employer could engage with students. Following NALP's decision, there were notable shifts in the timing and process with more firms conducting interviews outside of the law schools' preferred OCI timing, and after the pandemic-induced lockdowns, the process felt even more disrupted when firms could no longer rely on fixed variables such as transcripts, or even prior yield information.

Appetite to Revisit Market Schedules

Many of the discussions about OCI related to timing, which was adjusted to accommodate the pandemic but returned to its standard schedule for the summer of 2021. When asked what they would like to see happen around OCI, a common theme was to change when and how quickly it happens, attributing both as a challenge to innovation. "If we could change the timing, we would transform how we would recruit," advised one talent leader. "I would change the compression of the timeframe and intensity of the process, because now it is three weeks for all of the callbacks," suggested another.

Noting that the timing of OCI isn't within an employer's control, a different respondent observed, "[w]e are hamstrung by the schedules that the schools set out, as we are offboarding summer associates when the schools want us on campus; law firms cannot be innovative because they are jumping from one frying pan to the next." And still another wished out loud, "If I could wave a magic wand, we would change OCI to January; the current system makes it difficult to innovate and move the ball on assessing the potential success of law students so early in their careers, which limits us to just grades, which is sad and insufficient."

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Moreover, students are increasingly interviewing before OCI “officially” kicks off with a meaningful number of students accepting offers before the majority of firms that observe law schools’ preferred timing even make it out of the proverbial gate. “Our competitors are jumping ahead of us and hiring prior to OCI, making OCI less relevant,” noted a participant. “The timeline for recruiting is shifting, and firms are giving offers earlier, which is hard because we may not even have grades; it is taking on more of a year-round model, which is not necessarily good or bad [but] if firms are making offers in the spring, you are at a competitive disadvantage,” added a peer.

“The current system makes it difficult to innovate and move the ball on assessing the potential success of law students so early in their careers, which limits us to just grades, which is sad and insufficient.

In-Person versus Virtual Recruitment

Not having to physically go “on-campus” because of the shifts brought on by the pandemic was generally seen as a plus with one participant saying, “I hope they keep it virtual because it has been so much more efficient; sending lawyers to campus is just another exercise in herding cats.” The efficiency created for this participant, however, introduced a different obstacle for others who struggled to distinguish themselves from peer firms, because candidates were not visiting their offices. “Branding is our biggest obstacle, and students are not familiar with what makes our firm unique,” remarked one talent professional.



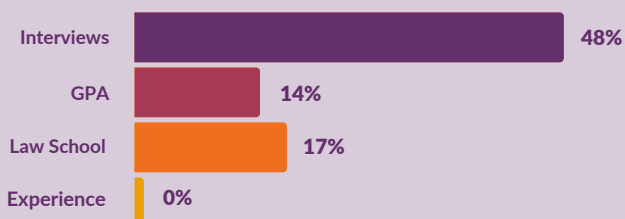
“Branding is our biggest obstacle, and students are not familiar with what makes our firm unique.

Available Candidate Data Points

With the pandemic limiting the ability of firms to meet candidates at in-person interviews or other school-sponsored events, virtual interviews and transcripts played an even more critical role in recruiting, even though most students had only pass/fail grades for spring 2020 and questions

remain around the reliability of grades for 2020/2021 given differences in how individual students were impacted by the pandemic. Almost half (47%) of the participants in this survey ranked interviews with law students as the most important criteria in selection, compared with their GPAs, law school rankings, and transferable experience (which was deemed least important due to the general lack of it among summer hires). All of the law firms surveyed for this report conducted interviews, and almost half (47%) also requested writing samples from their student prospects even though few take them into consideration. "We don't have an infrastructure built for people to look at writing samples," said one talent professional.

Most Important Criteria in Extending Offers



“

The biggest obstacle is the lottery system in OCI because we do not get to see everyone who wants to work for us.

”

Limited Candidate Pool

Perhaps also related to the limitations of historic entry-level recruitment processes, participants pointed out lost opportunities to get to know, interview, or hire candidates that exist outside of the traditional OCI realm, including those who “write-in” either because they do not win their school’s lottery or because law firms do not recruit at their schools. And while some firms indicated receiving many write-in applications, 43% of respondents advised that their firms hire fewer than 10% of them. “We get a ton of write-ins but we do not hire them,” said a talent leader. “The biggest obstacle is the lottery system in OCI because we do not get to see everyone who wants to work for us,” offered another.

Innovation Exploration

With respect to entry-level hiring, 43% of respondents advised that they are innovating their recruiting process, as a nod to the widely held belief that historic processes are stale and limiting. While some portion of innovation likely hinges on whether law firms return to campus, other ideas appear to be taking shape around engaging with candidates in new ways. “Our goal is to continue to promote our pipeline building to connect with candidates outside of the OCI process to have stronger engagement beyond 20 minutes on campus [for an interview],” said one

respondent. Another shared that “[c]andidates for the summer program are divided into teams to foster collaboration,” while another colleague described their innovation efforts through a more operational lens, noting that “[m]uch of it is process and technology; we are looking at ways to onboard more effectively.”

43%

of respondents indicated they are
innovating their recruiting process

Market Standards for Lateral Hiring in a Pandemic Marketplace and Their Impact on Quality Control and Acculturation

Lateral lawyers typically fill voids created by attrition in the entry-level classes or newly-created roles that result from strategic growth or increased demand in different practice areas. As with entry-level hiring, lateral hiring typically follows a sequence of screening interviews and callbacks, with a discrete number of offers being extended. Recruiting agencies and internal referrals function as the primary source of candidate introductions. Participants suggested the unexpected spike in demand in 2021 created a scarcity of talent which upended these traditional patterns. In the pandemic marketplace, firms seemed to move a wider berth of candidates through their selection process without as much weight on relevant technical experience, and accelerated hiring decisions to avoid losing out on talent. Any appetite to meaningfully diligence potential hires was often eclipsed by the urgency to fill spots.

Reference Checks

Generally speaking, this research revealed that firms do little by way of “due diligence” into potential candidates outside of the interview. While 83% of participants do check references, several described them as unhelpful because of their timing, e.g., they are conducted after an offer has been extended, and so, the feedback isn’t meaningful, and they can delay the process. “Though we perform reference checks, they are pro forma and we rarely recall an offer,”

explained a talent leader. Others acknowledge that reference checks are unlikely to yield any meaningful information regarding a potential hire, with one admitting “[w]e check references with a grain of salt, but there is no value because I can script out the conversation.” Another said, “I don’t know if we contact references before we hire; we question whether the reference is valuable and might instead reach out to someone we know who knows that person.”

83%

of respondents check references, but don't find them helpful due to timing



Internal Referrals and Headhunters

The little value that comes from the ill-timed reference checks described by respondents is potentially another reason why firms rely on internal referrals to secure lateral talent. 23% of the survey respondents work at firms that hire between 21% and 40% of their laterals through referrals, with one putting that number at 81-90%. Most attributed referrals as the most reliable source for identifying talent, with 70% reporting that referrals yield their most successful lateral associates. “Part of the reason that laterals don’t work out is that they don’t fit in; if you have someone that knows you, you can assume a greater level of comfort,” said one respondent. “Anecdotally, it is always referrals because it is generally a better cultural fit; our data shows that if you have a friend at the firm, you tend to remain at the firm,” commented another. “The best person to recruit you is a friend; we have a fairly satisfied workforce and a high degree of lawyer satisfaction,” offered a third.

The “comfort” that comes with an introduction by a known source—albeit outside of the firm—might explain why 53% of respondents reported that external recruiters are also sources of their firms’ “successful” lateral hires, i.e., those that efficiently accept offers and remain with the firm. “We use recruiters most often because the structure lends itself to more productivity,” remarked a participating leader.

“

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Innovation Exploration: Direct Outreach Leveraging Technology

A common theme among respondents was the need to revisit historic hiring practices based on what they've learned over the last 18 months. 77% of respondents indicated that “upgrades” were already contemplated in their lateral hiring process. “Until 2021, recruiting was fine, but when you go from 15 openings to 55, you get the attention of firm leadership; recruiting is now a hot topic that everyone cares about,” said a participant. “Given the volume of recruiting, something needs to change,” echoed a peer. “We are in the process of centralizing the lateral associate process to develop firmwide standards to drive associate recruiting in a way that is uniform and consistent with how partners are recruited,” explained a third.

“Until 2021, recruiting was fine, but when you go from 15 openings to 55, you get the attention of firm leadership; recruiting is now a hot topic that everyone cares about.”

Given the financial costs of using external recruitment agencies, 40% of the respondents noted that innovative and direct outreach efforts could mitigate both expense and risk. “We have started performing direct outreach, [and] have hired internal recruiters to help with direct outreach, which has been very successful,” noted one respondent, with another sharing “[w]e could improve on direct outreach, and having the firm call directly would flatter the candidate and persuade the candidate to join the firm.” Another added, “[w]e would like to loosely stay in touch, and reach out more directly to candidates we did not originally hire during OCI; I would also like to do more with AI, as well, to monitor candidate movement, [and] to give us insights on potential candidates.”

77%

of respondents indicated upgrades have been contemplated at the lateral level

40%

of respondents think direct outreach could mitigate expense and risk for laterals

And, while this sort of targeted recruiting seems like an appealing way to capture lateral candidates to some, others pointed to the need for extensive internal coordination and skills more closely associated with sales as impediments to progress on this strategy. Moreover, a view that direct outreach might be “frowned upon” by peers has also stalled some. “[T]here is an ‘agreement’ to avoid [direct outreach],” said one participant, “but it is something we are thinking about.” This is likely to become more acceptable as the competition for talent increases.

However, even those that have been reluctant to reach out to candidates directly are considering how to leverage technology for self-service recruiting. Although half of the respondents are finding fewer than 10% of their lateral hires on LinkedIn and other third-party sites, some are focusing on increasing this usage, with one participant advising that their firm hires 31-40% of its lateral hires from LinkedIn or a third-party website. “We have 11 LinkedIn Recruiter licenses; LinkedIn is a huge source of our lateral hiring,” said one leader. In addition to using enterprise-wide tools like LinkedIn Recruiter and Glassdoor, the respondents listed some industry-specific applications that might be leveraged, including the Leopard List from Leopard Solutions, Legal Compass, and Symplicity.

Creating and Sustaining Diversity in Law Firms

As law firms continue to consider ways to leverage technology in their recruiting efforts, they also continue to emphasize diversity, equity, and inclusion, prioritizing ways to identify a more diverse population as well as engage, promote, and retain diverse talent. While enhancing the diversity of their incoming and lateral hires remains a significant priority for large law firms, they point to obstacles that prevent them from achieving those goals as quickly as firms would like. “There are not enough diverse candidates because of barriers to entry, such as LSAT scoring, GPAs of undergraduate institutions, and a lack of incentives for law schools to take risks,” advised one leader. “As an industry, we owe it to ourselves to change the structure so that people of color and women get more opportunities in Big Law,” the individual added.

“

As an industry, we owe it to ourselves to change the structure so that people of color and women get more opportunities in Big Law.”

Attracting and Retaining Diverse Talent

According to NALP’s 2020 Report on Diversity in U.S. Law Firms, published in February of 2021, which analyzed data from the 2020-2021 NALP Directory of Legal Employers, 36% of summer associates are students of color.⁴ Beyond the demographics of summer associates, the same 2020 Report highlights that associates of color only represent about a quarter of those currently working in the law firms surveyed.⁵ “The landscape is competitive and particularly for diverse attorneys” noted one participant, going on to say that “a key obstacle is finding ways to build diverse pipelines.” As a result, law firm recruiting teams continually push for more diverse hiring at both the entry and lateral levels. But despite their efforts, their struggle to attract and retain diverse lateral talent is very real and very frustrating, with one emphasizing: “We work with a few headhunters who specialize in placing diverse lateral attorneys, but it is less successful [for us]; in fact, all of our efforts and hard work in OCI hiring is often undone by lateral hiring [due to a lack of diverse candidates with the requisite experience].” Another participant noted, “[o]ur summer associate classes have been over 80% diverse, which is great, but we need to carry that forward

⁴ National Association for Law Placement, *2020 Report on Diversity in U.S. Law Firms*, 28 (February 2021).
https://www.nalp.org/uploads/2020_NALP_Diversity_Report.pdf.

⁵ *Id.*, 23.

toward advancement." A peer confirmed, "[w]e have met our hiring goals, but the retention of diverse associates is a challenge." While participants remarked on the heightened scrutiny around diversity from their firms' clients, one participant also noted ironically, "[w]e are constantly losing diverse associates to clients."

36%

of summer associates
are students of color

25%

of associates in law firms
are associates of color

Same Efforts Lead to Same Frustrations and Same Outcomes

Another challenge for law firms when attempting to increase diversity in their lawyer population is the apparent absence of a unique or novel approach. "We are all doing the same thing; we post at job fairs with diverse organizations, have our lawyers engage with diverse contacts, and also engage diverse recruiters," said one respondent. "The firm has a chief diversity officer and is continuing to explore expanding the types of schools from which it recruits, increasing the number of schools, asking better questions, and being more purposeful in our efforts," advised another.

In an effort to hire more diverse candidates, law firms are engaging in many of the same activities:

- Headhunters that specialize in placing diverse associates
- Job fairs with diverse organizations
- Engaging with diverse candidates
- Introducing the role of a Chief Diversity Officer
- Expanding the types of schools the firm recruits
- Participating in pipeline programs
- Hiring more 1Ls
- Working with affinity groups
- Mansfield Certification



In an effort to increase representation, most firms are participating in a variety of pipeline programs, hiring more first-year students, and broadening their target law schools. “We place direct law school advertisements, work with law school affinity groups, engage with internal groups, and have a 1L hiring process with the Leadership Council on Legal Diversity’s 1L program to identify diverse talent early and expand our pipeline,” said one respondent. “We attend job fairs and engage with various pipeline programs,” offered another.

Adding to the list of challenges faced by firms, when a firm is hiring lateral lawyers, the focus is primarily on filling acute needs for subject matter expertise in specific practice areas, which can disrupt the goal of hiring expansively and with an emphasis on diversity. “We do the work that would attract diverse candidates, such as offering diversity scholarships, focusing on diverse lateral partners, and emphasizing our commitment to this area as well, but we are often scrambling [for particular skills] and that is when it is hardest to have the most expansive view of who should be hired given that we are so laser-focused on individuals with the experience that we need,” said a talent leader. “When you are recruiting [laterally], you are trying to fill an acute, immediate need; we are Mansfield-plus-certified and are finding good diverse candidates through the process, but we are [also] often urgently trying to fill a position,” echoed a peer.

“ We work with a few headhunters who specialize in placing diverse lateral attorneys, but it is less successful [for us]; in fact, all of our efforts and hard work in OCI hiring is often undone by lateral hiring [due to a lack of diverse candidates with the requisite experience].



And while our research did not dwell on this particular pattern, it is meaningful to note that another challenge for many firms observed by both NALP and the American Bar Association is the lack of diversity among their leaders. In its 2020 ABA Model Diversity Survey Report, which reflects data from more than 370 law firms and was published in February 2021, the American Bar Association’s Commission on Racial and Ethnic Diversity shared, among other findings, that “[r]epresentation of minority groups is growing at the bottom levels of associates, but is declining at the higher levels of non-equity and equity partners.”⁶ NALP’s research also indicated that only 10% of the partners at the law firms surveyed identify as lawyers of color.⁷

⁶ American Bar Association, Commission on Racial and Ethnic Diversity, 2020 ABA Model Diversity Survey, 19, 48 (February 2021). https://www.americanbar.org/content/dam/aba/administrative/racial_ethnic_diversity/aba/credp_2020_mds_report.pdf.

⁷ National Association for Law Placement, 2020 Report on Diversity in U.S. Law Firms, 26 (February 2021). https://www.nalp.org/uploads/2020_NALP_Diversity_Report.pdf.

| New Tools to Refresh an Old Toolbox

As the volume and attendant cost of hiring and replacing lawyers increases every year, and firms look for opportunities to meaningfully improve the results of their diversity initiatives, firms appear more willing to confront their reticence about new approaches and technology. “Law talent has never been more expensive and getting it wrong is much more costly,” advised a participating leader. Another noted that “lateral associate hiring is a crapshoot at best,” and that the current cost of any hire needs to include the probable cost of departure and replacement. This never ending cycle of “catch and release” offers one possible explanation for why firms are looking to incorporate technology, such as solutions offered and developed by Thine, into their processes. “The work of Thine [is focused on] trying to make better matches because there are so many costs associated with hiring, especially when the ‘fit’ is not right,” observed a talent leader.

“**Law talent has never been more expensive and getting it wrong is much more costly.**”

| Increased Use of Assessments in Hiring Entry-Level Lawyers

Concerned that the highly-competitive and fast-paced market for lawyer talent will trend even more aggressively, law firms are committed to hiring lawyers with objective potential to flourish and a greater likelihood of retention, and are incorporating different recruitment tools to achieve this. 23% of respondents work at firms that are currently using some type of an assessment, such as a detailed questionnaire or a practical exercise because, as one leader shared, “[t]he recruiting process is too subjective and unfair; with an assessment, you might be able to get more people over the hump and have them hired.” Another said, “[w]e use writing tests and a resilience test for new hires; we usually conduct behavioral interviews and ask pointed questions about hard skills with laterals.”



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of respondents work at firms that are using some type of assessment

As support for their perspectives on using assessments when recruiting lawyers, several respondents pointed to the already widespread—and successful—use of assessments outside of the U.S. or for non-practicing professionals at their firms. “We have been using assessments for high-level staff positions for almost a decade,” reported one participant. Another respondent, noting that lawyers outside of the United States are already evaluated in this manner, said “[s]ome overseas offices use formal assessments; it is more common to use an assessment in the UK and in London, specifically.”

Assessments continue to be a significant area of interest for entry-level hiring with an increasing number of firms incorporating them into their recruitment process. “If there is one thing to change, it would be to leverage an assessment or a way to broaden the type of resume that gets selected [because] there is still a fairly heavy emphasis on law school and GPA,” said one leader. “I would like to do more to remove bias from the process, which would include new assessments,” echoed a peer. Another said that using an assessment tool could help because “the better you get to know a student, the better you know whether they will be a fit.”

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While respondents expressed some concerns about the impact of introducing assessments into the current data set of transcripts, writing samples, and interviews, more firms indicated an intention to use them, particularly for their summer associate classes, as a way of enabling them to be more inclusive in their recruiting efforts. “Student recruiting is competitive, but we have less fear of scaring them off, and [we] also want to dig deeper into law school classes and rankings to enhance diversity; our goal is to convince the firm to hire more people that they would not have looked at,” said one leader. “The long-time resistance has been that ‘law firms don’t do this’...assessments are not foolproof, but neither is random banter in interviews,” added a peer.

Curiosity and Concerns Around Assessments in Lateral Hiring

Assessments were the most commonly cited innovation in the lateral associate recruiting process. “I am trying to make the experience of the lateral process more streamlined, less clunky, and less 2000; I am thinking about assessments and introducing them,” said a leader. “We are looking at assessment tools to help predict success, and AI for efficiency and to ensure we are eliminating any bias,” a peer added. “We are exploring different software efficiencies and need to get a better handle on how the people we have hired are doing,” said another colleague.

Notably, from a lateral hiring standpoint, the pace is so fast and the candidate pool is so small that many of the respondents expressed concern about adding any type of assessment at this time for fear that it would prove an impediment to the process and negatively impact a candidate's interest in a firm. "The problem is that now, the market is so hot that whatever hurdle you create, the person will go somewhere else," noted a participant.

After all, speed matters today more than ever, with 63% of respondents taking only two to six weeks to hire a single lateral candidate. "It has gotten shorter because the market is moving faster and virtual hiring is more efficient," said one leader. "It is the top of the funnel that is the issue, not the process of getting an interested candidate through the process," explained a peer. Those firms not able to shorten their process lament the potential cost, with one leader noting that, "[w]e are losing candidates and causing unbelievable fatigue with the current processes because they are too lengthy; it is not fast enough in this market and we are too slow and too risk-oriented."



As the market cools, talent leaders may have more time to focus on the advantages of unique evaluation methods. "We have looked into using an assessment because it makes a lot of sense for getting someone with the right fit who matches our competencies [and] they may also be less biased than interviewing; we would like to use them in an ideal world, but right now, we are just treading water," a participant noted.

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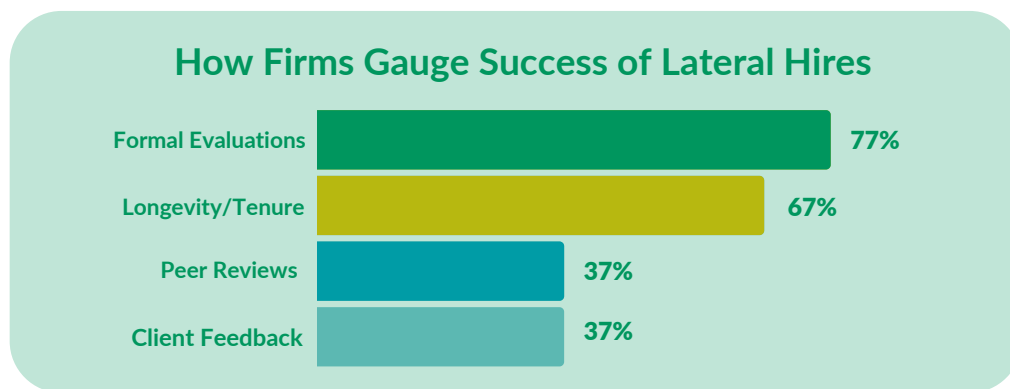
Curiosity and Concerns Around Artificial Intelligence

Firms are also increasingly thinking about how to analyze the "success" of some hires over others, and are looking for ways to measure for certain factors as part of ongoing hiring efforts. While respondents wondered if "artificial intelligence" or "AI" could potentially support this ambition, they also pointed to various barriers that could challenge their adoption of this technology, including anecdotes from peer firms about prior bad experiences, or a perceived lack of need. "Some peer firms used AI in their summer associate recruiting and it was not well-received..." said one. "We need [to improve] the basic system before we can provide enhancements," explained another,

noting that the firm would benefit from developing the threshold infrastructure before adding more sophisticated applications. One concern noted by several participants is ensuring that any adopted AI tool is free from bias, given the fact that human beings are the ones feeding data into and developing them. “We are looking at having profiles of who has been successful at the firm, which we want to reverse engineer; this can be tricky because...of unconscious bias,” said one leader.

Increased Focus on Competencies

Currently, the most common ways that firms gauge the “success” of their lateral hires are generally through formal evaluations from supervising attorneys (77%) and longevity/tenure with the firm (67%). Other data signals might include peer reviews, awarded bonuses, and client feedback, but these are easily manipulated, unreliable and subjective. “We don’t measure ‘success’ [because] ‘success’ requires an appropriate definition,” said a leader. “The challenges include agreements on what we are looking for, because different practice groups have different values and criteria,” said another.



Interestingly, the respondents themselves disagreed on whether “longevity”—arguably one of the more commonly valued factors—was a validating indicator of lateral success, with one respondent commenting that “tenure at the firm is a good indicator of success because usually, you don’t make it that long if you are not successful,” while another countered that “longevity is not indicative because someone could remain at the firm for awhile and not be successful; law firms are reluctant to make hard decisions about eliminating a position.”

Perhaps for this reason, firms appear to be looking increasingly to substantive professional progression as a method for measuring success. “The firm is updating its attorney competencies and will likely have different designations about what constitutes success factors,” reported one participant. “Our objective is to try to identify the traits and characteristics of our most successful hires, and create or use assessments to identify more characteristics,” said another. The identification of those competencies and creation of those success factors will require careful reflection on the part of firms, as observed by one leader who cautioned that “[i]f we mirror our existing professionals, we are, in essence, following our own biases anyway.”

While competency-based evaluations, in assessment form or interview format, are not currently used for laterals to the same extent as with entry-level hiring, it seems likely the momentum will shift quickly in the near future, as several respondents highlighted the value of, and need for, this approach, despite expressing some concerns about the timing of deployment and current lack of broad use. “We do not have a formal assessment but are looking at the merits of possibly moving towards one because most laterals remain with the firm fewer than five years; we want to make smarter hiring decisions,” said one professional. “There are not that many firms incorporating competency-based questions and structured recruiting, so at the very least, we should have structured panel interviews or have a competency-based system where the candidates are asked the same questions, which is not happening here or at most firms,” added another.

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Even the best interviewers are probably doing fit interviewing and we feel like the market has come far enough with assessments that it would be another great data point to factor into the overall package that we are looking at when we are comparing candidates.



Conclusion

This research indicates that primary objectives associated with recruiting, retaining, and assessing lawyer talent today are unmet because they become secondary to navigating a highly complex, hyper-competitive, and increasingly expensive marketplace with tools that are outdated.

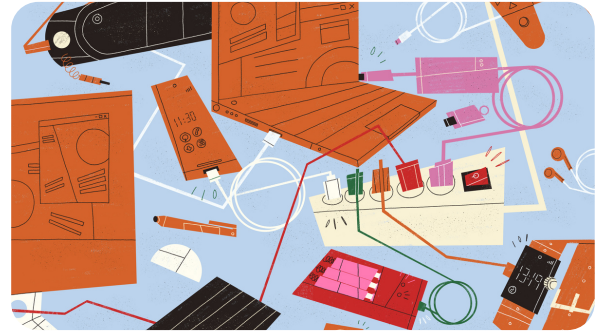
Innovation appears to be a key factor in firms' plans to address the stresses and challenges of the hyper-competitive market. In the increasingly hybrid hiring world of 2022, supplementing in-person and virtual events with assessments, updated competencies that guide structured interviews, and innovative ways of sourcing talent might improve quality control and acculturation efforts, potentially lowering the various costs associated with haphazard and frenzied recruitment efforts.

With almost a quarter of respondents currently using some type of an assessment and many more expressing meaningful interest in leveraging technology to make their hiring more equitable, it is likely that the legal community will see broader adoption in the future. “We are looking at different tools and evaluating whether we should use them, and if so, which one,” said a talent leader. “I anticipate that in 2022 we will engage with one of them and start to use an online assessment; even the best interviewers are probably doing fit interviewing and we feel like the market has come far enough with assessments that it would be another great data point to factor into the overall package that we are looking at when we are comparing candidates,” said another.

While assessments have largely been used to date at the entry-level, there are signs of an increasing interest in adoption for laterals. “Most assessment tools are focused on entry-level associates first, but laterals are next because hiring lateral associates has often been a leap of faith and I don’t think we should be relying on a leap of faith; we were previously relying on law school and GPA, which are not good predictors after a few years of practice,” noted a respondent. “We have discussed using an assessment because I want more data to make more educated decisions about hiring,” added a colleague.

Despite the frequently observed need for innovation, some talent leaders seemed uncertain as to whether their firms would actually do something new. When asked to identify what could interfere with the adoption of technology, a respondent observed, “[m]y gut reaction is the partners and management, and their inability to lead the charge in any type of significant change.” Another leader added, “[n]o one wants to wade in first.” And still a third explained soberly, “[i]t is the same challenges as always, such as nostalgia, cost, fear of failure, and concern about keeping pace with the market.”

“**We have discussed using an assessment because I want more data to make more educated decisions about hiring.**”



Other respondents, however, were more optimistic, and countered the notion that firms are reluctant to adapt. “The virtual platform gave us the chance to create more uniformity, which moved us forward from where we were; the firm encourages innovation and is an entrepreneurial place,” noted one participant. “Law firms are better about innovating, adjusting, and adapting, but they are not great at it to start; our firm is very supportive of trying new things and getting out there,” explained another. With firms having to kickstart their innovative efforts as a result of the pandemic, and given the number of respondents that already use some type of assessment or are interested in incorporating technology into their recruiting efforts for a competitive advantage, more firms are likely to experiment with and adopt such tools moving forward.

The most important takeaway from this research is perhaps that the industry seems - despite historic reticence to upend long-standing recruiting practices - increasingly willing to revisit the underlying assumptions of such recruiting practices. The hyper-competitive marketplace brought to bear financial and cultural costs to law firms who maintained allegiance to historic processes in the recruitment of lawyers, and these mounting costs will undoubtedly become a clarion call for innovation.



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