



ATTORNEY SEARCH

By Carey Bertolet

Interviewing a Law Firm: Distinctions that Make the Difference

I recently asked a managing partner (who is actively in the market for lateral partners) how his firm distinguishes itself from its competitors. The response I got was, "We've got a great firm and we make a ton of money." I have to give him points for being superlative, if not terribly specific. He wasn't being flip; it was clear that he believes that these are the two reasons for partners to join his practice. But as someone who talks to firms about their senior-level needs on a regular basis, these may be important characteristics of the firm, but they are hardly *distinguishing* characteristics of the firm. The truth is many firms aren't great at articulating what makes them different from their competitors.

That usually leaves the job to the lateral partner candidate.

I speculate that the reason that law firms aren't experts at distinguishing their firm from competitors is that they want to keep their pitch upbeat and palatable, and the safest way to do this is often by speaking in generalities. For example, a lockstep partner compensation system may be viewed very positively or very negatively, depending on the lateral partner candidate. I think that firms feel they remain more appealing to candidates when they aren't getting into those nitty-gritty details that risk turning off (and losing) candidates who may otherwise have been interested in the firm. (Since I am writing this in the midst of the 2008 presidential election, I am starting to see some parallels. Everything, it seems, is 'change' and 'maverick' and 'hope' and 'oversight.' I see this tendency to stick to broad statements that people can't really take issue with, and a failure to deliver detailed information. While I'm not holding my breath for politicians to start talking specifics, I do encourage law firms to start out talking to partner prospects about those business principals and plans that are distinguishing.)

I tell my law firm clients that the most powerful way to recruit lateral partners is by focusing on the details. As popular as it is to be a 'great' law firm that 'makes a lot of money,' more is needed for a powerful hire. Even if the specifics of your compensation system (or business philosophy or management structure) will dwindle the pool of interested candidates, narrowing down is critical to finding the right partners for the future of the firm. As a law firm, you have made a myriad of choices and decisions about how that firm will do business and thrive – this is what defines you. In practice, though, law firms can tend towards the general.

Thus, I suggest to my partners interviewing with a new firm to take the lead in helping the firm define and distinguish itself. At the end of the day, deciding which firm to join is ultimately a question of looking at the individual equity partners and making a decision whether these are people with whom you want to partner. Taking aside the obvious, that means have you asked the questions that will give you enough information to determine whether these are lawyers who 1) share your point of view as a businessperson, who 2) are your equals in the ability to create a profitable business, and 3) who you could see yourself really trusting? In my experience, most of these questions are answered at a gut level once you've spent enough time with your potential new partners. As you'll see below, there are important questions to ask, though, that help

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you outline the answers as you move through the process. Some of these questions will be fundamental to understanding how the partnership works. Some of the answers to these questions may simply lead you to eliminate the firm as one in which you are interested. All of the answers, taken together, will provide you with the tools you need to define and distinguish, even if the firm hasn't attempted to do that for you.

What is your compensation philosophy? We're all familiar with eat-what-you-kill versus a merit-based scheme versus a lockstep partnership system. While one is not innately superior to another, a firm chooses its compensation philosophy for a reason. It speaks volumes about its culture and its business. Obviously, some will be more interesting to you than others. Secondly, ask who determines the compensation, and whether partners are compensated on an open or closed basis. Third, ask whether behaviors that are important to you (e.g., referring work and cross-selling) are rewarded in the firm's compensation structure.

How many tiers is your partnership? The trend today (overwhelmingly) is a two-tiered partnership. What it means to be a partner has changed dramatically over the past 10 to 15 years, and becoming an equity partner has, in some ways, become more difficult. A two-tiered partnership may offer a firm more freedom to promote its lawyers without having to split up the profits. It usually also raises the barrier to entry for the equity level. Ask about why the firm chooses to have the partnership structure it has. You should also ask whether the firm has de-equitized partners in the past, and under what circumstances.

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How is my compensation affected in a down year for my business? Again, there aren't any right or wrong answers to this question, but if your business is one that runs with the ups and downs of the economy, it is important to try to anticipate how a more modest year of collections will be viewed by a new firm.

What business lines are you focusing on in the next 5-10 years? The uncertainty in today's economy underscores this question – which is often forgotten when law firms are thriving. Is the firm thinking ahead of the market to anticipate what practice areas will be most in demand down the road? As a corollary, how dependent is the firm on any one particular practice area? If the market for a particular legal service wanes, what are the other practices that will pick up the slack?

How much debt does the firm have? Both capital investment and ongoing debt obligations of partnership are paramount issues in joining a firm as an equity partner. A firm should be forthcoming about its debt and use of lines of credit. In my opinion, profits per partner figures on which we've relied so heavily in the past will not be as reliable as indices of future success as a more critical analysis of how the firm manages its business on behalf of capital partners.

Is there a mandatory retirement age? Like partnership tiers, the mandatory retirement age issue has been one in transition at many firms. However, this is a defining question I've seen be a pivotal issue in terms of suitability.

What are the firm's aspirations for new and existing satellite offices? Large-scale expansion, through merger and acquisition, has been extremely important in the last several years. As we move through a recessionary economy, though, I suspect we'll see an increasing emphasis on those law firms that have been conservative in opening new offices. Again, it is not a matter of what is objectively right or wrong – but the geographic decisions a firm makes say something about the firm. This may or may not work for your practice.

I encourage firms to resist the short-hand temptation to try to simply say "we're better than the rest." I prefer a law firm that can identify those lateral partner candidates in the market to whom its particular business model is attractive, and sell the firm on that basis. As important as it is to acknowledge what types of attorneys succeed at your firm, it is as important to acknowledge what types of attorneys don't succeed.

Lastly, profitability is paramount, but the structure that supports that profitability is what makes a law firm a good home for its particular partners. When a lateral partner in the market can make those distinctions on his or her own, the decision-making becomes far more clear.