# The Silent Malpractice Exposure: How Lateral Hires Carry Hidden Liability

## Your next malpractice claim may walk in through the front door wearing a suit and carrying a book of business.

### The Risk No One Talks About at the Offer Stage

Lateral hiring is one of the most effective growth strategies in legal, and one of the most underappreciated sources of professional liability exposure. When a firm brings on a lateral partner or associate, the conversation almost always centers on book of business, cultural fit and compensation structure. What rarely makes it onto the due diligence checklist: the matters they're bringing with them, the clients they've already advised and the conflicts they haven't disclosed.

The reality is that malpractice claims don't always originate from work done at your firm. They can surface from advice given at a prior firm, from open matters that transferred improperly, or from conflicts that went undetected because intake protocols weren't designed to catch them. And when those claims arrive, your policy may be the one responding.

### Where the Exposure Actually Lives

There are three primary areas where lateral hires create hidden malpractice exposure.

First, undisclosed prior matters: Attorneys sometimes bring client files, institutional knowledge, or ongoing responsibilities from a prior firm without complete documentation or proper transition procedures. If issues later arise from those matters, the new firm may become involved in a claim it had no prior knowledge of and did not originally handle.

Second, conflict check failures: Most firms conduct conflict checks during the hiring process, but those checks are only as effective as the information provided. Laterals may inadvertently omit prior representations, former clients or informal relationships that they do not believe are material. These undisclosed connections can create conflicts that are discovered only after a matter is underway.

Third, prior acts coverage considerations: Firms should understand how the departing attorney's prior work will be covered if a claim arises in the future. In many cases, the attorney's former firm remains in existence and continues to maintain professional liability insurance, preserving coverage for prior acts. However, if the former firm dissolves, merges, ceases operations or otherwise changes its insurance structure, a tail (extended reporting period) may be necessary to protect against future claims arising from work performed before the attorney's departure. Failing to understand these coverage arrangements can lead to unexpected disputes regarding which policy should respond to a claim.

### What Management Committees Should Do Now

The good news is that these exposures are largely manageable with the right processes in place. Start with a structured lateral intake protocol that goes beyond the standard conflicts check. This means collecting a detailed matter history, asking direct questions about pending disputes or client complaints, and confirming the status of tail coverage at the departing firm.

Engagement letter hygiene matters here too. When a lateral brings clients to your firm, new engagement agreements should be executed. These documents establish the scope of representation at your firm and create a clean baseline for liability purposes.

Finally, review how your professional liability policy handles laterals. Some policies require notice within a specific window of a new hire; others have specific provisions around prior acts coverage. Understanding your policy terms before a claim arises is the difference between a covered loss and an unpleasant conversation with your insurer.

### A Word From Gallagher

At Gallagher, we work with law firms to review how lateral hiring practices intersect with professional liability coverage before a claim surfaces. If your firm has grown through lateral hires in the past few years and hasn't revisited its intake protocols or policy terms, now is a good time to have that conversation. Reach out to our law firm practice team to learn more.

## Connect with us


**ANDREW HAUGEN**
M: (516) 434-9407
E: andrew_haugen@ajg.com


Want more information about our Law Firm expertise?

www.ajg.com/NELawfirms




The information contained herein is offered as insurance Industry guidance and provided as an overview of current market risks and available coverages and is intended for discussion purposes only. This publication is not intended to offer financial, tax, legal or client-specific insurance or risk management advice. General insurance descriptions contained herein do not include complete Insurance policy definitions, terms, and/or conditions, and should not be relied on for coverage interpretation. Actual insurance policies must always be consulted for full coverage details and analysis.

Insurance brokerage and related services provided by Arthur J. Gallagher Risk Management Services, LLC License Nos. IL 100292093 / CA 0D69293
© 2026 Arthur J. Gallagher & Co., and affiliates & subsidiaries | GGBUS200110