



MANAGING LONG-TAIL RISK

Law Firm Lateral Hiring Strategies



Lateral hiring has become one of the most common growth strategies for law firms. It offers speed compared to developing talent internally, responds quickly to client demand and can introduce new revenue streams, relationships and practice capabilities.

It is not inherently low risk.

The risk profile of a lateral hire differs from most other business decisions a firm makes. The exposure is not created within the firm. It is imported. It arrives with a history the firm did not generate and often cannot fully evaluate. Because professional liability claims can take years to surface, firms may not understand what they have inherited until well after the lateral is integrated, productive or no longer with the firm.

This is a long-tail risk. Lateral hiring remains one of the most consistent sources of this exposure within the legal profession.



Understanding the Risk Profile of Lateral Hires

When a firm hires a lateral partner or group, it is not only acquiring a book of business. It is also taking on a portfolio of prior work, including matters opened, advice provided, documents drafted and transactions completed. Each of these carries its own potential for future claims.

Several factors make lateral-driven exposure more complex:

» Prior work becomes the new firm's responsibility

Most legal professional liability policies are written on a claims-made basis. Coverage is triggered when a claim is made, not when the work occurred. A lateral who joins on January 1 brings their prior work history with them. If a claim is filed in March related to that prior work, the new firm's policy may be called upon to respond.

» Retroactive date gaps

Coverage depends on the policy's retroactive date. If the lateral's prior firm maintained an earlier retroactive date, and the new firm's policy does not align, a coverage gap may exist. This gap is not always identified during onboarding and can create unexpected exposure.

» Limited visibility into prior matters

Laterals may not have complete documentation of their historical caseloads. Some matters are transferred, others are referred out and some are simply less visible over time. Statutes of limitation vary widely by jurisdiction and practice area. A transaction completed years ago may still carry risk today.

» Evolving client conflict exposure

Conflict checks when onboarding are standard. Ongoing evaluation is less consistent. A prior client relationship may create a conflict months or years later as new matters emerge, with implications for both representation and liability.



Where Leadership Exposure Sits

The implications of lateral hiring extend beyond legal work into governance, financial oversight and leadership accountability.

» Due diligence as a leadership responsibility

Firm leadership, including managing partners, executive committees and general counsel, is responsible for conducting thorough due diligence. This includes reviewing disciplinary history, prior claims, practice profile and overall quality of work. Incomplete diligence is not just an operational issue. It can raise questions about management oversight.

» Time pressure in recruiting decisions

The lateral market moves quickly. Candidates often field multiple offers, and decision timelines can be measured in days. This speed can compress diligence efforts. Risk and insurance reviews may happen late in the process or after decisions are made.

» Representations made during recruitment

Firms sometimes make statements about insurance coverage, prior acts protection or risk management practices during recruitment. If those statements are inaccurate or incomplete, they can create additional exposure for the firm and its leadership.

» Intersection with management liability

A significant claim tied to a lateral hire can prompt scrutiny of leadership decisions. This includes whether appropriate diligence and oversight were exercised. Management liability coverage, including directors and officers protection for firm leadership, should be evaluated in this context.





Insurance Considerations and Potential Blind Spots

While most law firms recognize the importance of professional liability insurance, fewer fully account for how lateral hiring affects coverage.

» Tail coverage and prior acts exposure

When a lateral leaves a prior firm, coverage for their past work typically remains in place only if the prior firm maintains its policy or purchases tail coverage. If that coverage lapses or the firm dissolves, protection for prior work may no longer exist. The new firm's policy may be the only available source of recovery, depending on its structure.

» Retroactive dates are not automatically adjusted

Firms sometimes assume insurers will extend retroactive dates to cover incoming attorneys. This is not standard practice. Extending prior acts coverage often requires underwriting review and additional premium. If this is not addressed before the hire, gaps may only become visible once a claim arises.

» Reliance on representations in lateral agreements

Lateral agreements often include statements regarding prior claims, disciplinary matters and known issues. These provisions are valuable but require verification. Without alignment between legal agreements and risk management processes, their practical value may be limited.

» Concentration risk with group hires

Group lateral hires increase exposure levels. The likelihood of at least one claim within the group rises, and the firm assumes concentrated exposure from a single prior environment. Shared practices or processes from that environment may introduce systemic risk that is difficult to evaluate in advance.

Key Considerations for Law Firm Leadership

The risk tied to lateral hiring often develops before it is clearly understood. Prior work is fixed. Potential claims are not yet visible. This gap is where law firm insurance programs can fall short.

Due diligence should be treated as a core risk management function, not solely an HR or recruiting task. The business case and risk assessment should proceed in parallel, each with appropriate depth.

Retroactive date exposure remains one of the most commonly overlooked issues. Firms should have explicit discussions with their broker about how prior work will be treated under existing policies before finalizing a hire.

Lateral agreements should connect directly to insurance and risk management reviews. Representations made by incoming attorneys are only as effective as the processes used to validate and act on them.

Group lateral hires require an elevated level of scrutiny. As exposure increases, diligence, underwriting review and coverage analysis should scale accordingly.

Long-tail risk requires long-term thinking. The value of a lateral hire may be measured in its first year. The associated risk may not become apparent for several years. Leadership teams benefit from a framework that reflects the same timeline as the exposure.



A Note on Competitive Reality

This is not an argument against lateral hiring. It is an argument for approaching it with clarity and discipline.

Firms that manage lateral risk effectively are not necessarily slower. They are more structured. They operate with repeatable diligence processes, incorporate insurance review into hiring decisions and align legal agreements with risk management practices.

This approach does not delay growth. Rather, it helps sustain it.

The distinction is straightforward. A lateral hire can support a deliberate growth strategy, or it can introduce an unmeasured liability. The difference often comes down to preparation, coordination and visibility into risk.





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