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Letters to the Editor

Searching For a Good Associate

Law students and lateral associates searching for a law firm job should be ready to show that they know how to search.

Many of the skills expected of an associate are well-known: She must be a hard worker, a good writer, a creative analyst of legal arguments, and an organizer of tasks, information and people. But since electronic data has become the primary source of information in many litigations, there is another skill that has become critical for a young associate: the ability to search electronic databases quickly, thoroughly and exhaustively, finding the killer case citation or the incriminating e-mail.

That an associate must be able to conduct research or use a database such as Westlaw or Lexis is hardly a novel idea, but it is worth considering just how central to the life of an associate is the skill of electronic searching. As a young associate myself, I use that skill every day, many times a day, and know that my fellow associates do as well.

Almost every aspect of a young associate's life is tied to the need to find and master electronically stored information. First, the review and production of electronic documents during discovery and the use of those documents to build a case involve sifting through vast quantities of electronic data. It is not uncommon for "e-discovery" in a complex litigation to involve the collection and review of millions of pages of documents. Where is the incriminating e-mail? Where is the exculpatory report? What prompted the memo about which everyone is so concerned? How many times was someone warned (or not warned)? Associates have to search cleverly in order to answer these questions.

Second, a young lawyer is often asked to find cases and develop strands of legal theory based on analysis of those cases. The ability to search through databases such as Westlaw and Lexis is important not just for finding those cases but for feeling confident one has searched sufficiently well to answer the underlying legal questions. Clever, focused searches are also more cost-effective, both in terms of an associate's time and of the charges from the operator of the database.

Third, an associate may have to research the background of a fact or expert witness, or find background information about a time period, product or event. Much of that information lies in publicly available sources on the Internet or in databases of news articles. Although it is likely the average young associate knows Google like the back of her hand, the casual search one might run to find the menu of a restaurant differs from the thorough search one should run in addressing research questions.

Associates should make sure their searching skills are top-notch. The first step is to realize that conducting effective electronic searches requires not only technical decision-making—for instance, knowing when and how to use Boolean connectors ("and," "or," etc.)—but also tactical decision-making. Picking the right search term is critical. Should one use the full sentence in the deal agreement, or the most important clause, or the most important two words? A good searcher must be aware of the varying ways the information may appear. For instance, imagine a litigation that involved the acquisition of a company for \$11.5 billion. Documents addressing the deal might contain the following variations: "\$11.5 billion," "\$11.5bn," "\$11.5B," "eleven and a half billion," "eleven point five billion." And a good searcher must be able to abstract from the permutations of the specific phrase and locate documents that do not contain that phrase but address the same point: A document in which executives discuss an acquisition for "between ten and twelve billion" or "a little more than ten billion," or an e-mail about "the big acquisition."

Second, a smart search is also an exhaustive one. For each assignment, an associate should make sure he or she has gone down every avenue and accounted for every permutation of search terms that might be relevant. Attacking a search-related assignment from multiple angles may yield different results from each foray. It is difficult to know when an exhaustive effort becomes an inefficient one, but a good rule of thumb is to ask: "If I explained what I did to a senior associate or a partner, what questions might they ask about the approaches I took? Are there avenues about which they might ask that I have not yet explored?"

Third, associates must practice. A job at a law firm provides plentiful opportunities for practice. It is important that associates not shy away from opportunities to hone their skills.

Law firms and law schools also have a role to play. Employers should provide associates with a "best practices" guide with concrete examples of what successful searches look like. Although many law firms offer training sessions on legal research, it would help to have a part of the training program address the subtler requirements of good searching, and the consequences of poor searching, in various electronic data sources such as e-discovery portals.

Training should start even before the job does. Law schools are trying to focus more on preparing students for practice. For example, Harvard Law School has introduced a "Problem Solving Workshop," a course "intended to help prepare [students] for the actual practice of law by allowing [them] actively to engage in the sorts of discussions and activities that occupy real lawyers every day," according to its website.

Part of preparing students for real-world practice is communicating the importance of being able to search well and giving students the opportunity to practice outside the context of a legal research assignment. For example, law schools might offer students the opportunity to search a mock electronic document database to get a flavor for the challenges of e-discovery.

Young lawyers are increasingly becoming the managers, and masters, of electronic information. Searching through that information is difficult to do well. Associates must practice and perfect their searching skills, while the broader legal community must acknowledge the importance of those skills and help associates develop them.

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