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Bonita Moore Authors Article on Potential Professional Liability Issues Associated with Lateral Hiring Growth Strategies

In the article, “Your Business: More Lateral Movement, More Professional Liability Worries” published in The Recorder, Bird Marella Principal Bonita Moore discusses the trend of hiring laterally and acquiring smaller law firms as a growth strategy for law firms, as well as the professional liability issues that come along with it.

Since 2010, the trend in law firm mergers and acquisitions has been sharply increasing, but the reports also show about 40 percent of such hires have not been viewed as successful. Concomitant with this strategy, law firms have seen an increase in professional liability claims arising from such factors as incomplete due diligence on the lateral attorney, bringing problematic clients to the firm, or lack of oversight after hiring.

One particularly problematic issue in lateral hiring is hidden or non-obvious conflicts. Not only can conflicts lead to a loss of clients, in addition to hard-earned fees, but professional liability claims can be much more difficult to defend in court when they involve a conflict. Ms. Moore states, “Jurors understandably view a conflict as a betrayal and tend to attribute bad motives to the attorneys’ actions or failures to act, rather than accepting them as either a mistake or inadvertence that resulted in little or no harm.”

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