

## A Practice That Needs to Stop – (Some) Headhunters Charging a Premium for Diverse Talent

By [Michael D. Short](#) on September 27, 2021

If you, like many law firm leaders, are focused on your firm's diversity statistics, you no doubt know that *some* headhunters have begun charging a search fee premium for placing candidates with diverse backgrounds. While I remain a dedicated capitalist who firmly believes in the laws of supply and demand as determinants of marketplace value, I am both saddened and troubled by this business strategy. We're not talking services here...we're talking people. We're also talking about an industry that, frankly, has a lot of room for improvement, so any extenuating factor that creates inequities (of opportunities) is, to me, most unwelcome.

While most firms are trying to do the right thing and make sincere strides with respect to equality, diversity, and inclusion, these placement agencies are doing the wrong thing and creating unintended negative consequences, including:

- Driving diverse talent toward their highest bidders and largest retainers (rather than toward the best fit for the lawyer). This is not a *new* pressure, but the addition of a premium payment widens the gap between the opportunities for higher profitability firms and all others.
- Creating a never-ending and increasingly intense source of pressure on diverse talent because, as soon as a diverse placement is made, competing headhunters are motivated to immediately approach that person with "even better offers and opportunities" that will make *them* premium money.
- Ignoring the policies, investments, and sincere commitments being made by firms that cannot or will not pay premiums, but where the candidate might have a far higher chance of success.
- Working completely against the principle of equality.

On the other hand, I suppose one silver-lining of this trend is that these headhunters are looking deeply for any element of diversity in each candidate's background to justify a premium. In doing so, I suppose the industry's numbers/ratios will rise naturally, but in an absurd manner.

The legal industry is famous for trying to solve its most pressing challenges via money and this immense challenge, sadly, appears to be no different. For you smaller and/or less profitable yet very well-meaning and dedicated firms, take heart. Even though you may not be able to compete in this game financially, most candidates want sincere dedication to the cause and want to hear about your firm. Unfortunately, most larger/more profitable firms are also well-meaning and sincere, so this is not just about money once you're in the conversation. I just hope you can get into the conversation so each diverse candidate can make a truly informed choice...not one that has been influenced toward those firms that are able to extra-enrich the headhunters.

The solution lies within the pool of candidates. For those of you with diverse backgrounds using a headhunter firm, what do you think of your search agency potentially making a premium based on your unique family history and/or proud orientation? Did you know about it? Are you OK with it? Before your next move, I encourage you to ask about this practice (not all headhunters do this, thankfully) and determine for yourself if your representatives should profit extraordinarily from you simply being you...and without your knowledge.

Don't let them. It's wrong.