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How to Poach Talent – Without Getting Sued

It's a quick way to acquire expertise – and perhaps even new books of business. But hiring high performers away from rivals can carry legal risks as well.

By Ron Shinkman | July 8, 2025

Credit: iStock

Unless you're cooking an egg, "poaching" can be a risky business. Much like unauthorized game hunting on someone else's land, hiring away top talent from rival firms is not taken lightly, but workforce experts say it is a common practice in the insurance sector.

"For some companies, it's a business model to acquire revenue-producing talent," said **David Harmon**, co-chair of the employment strategies group at the **Norris McLaughlin** law firm in New York City.

Marta Voda, director of human resources advisory and outsourcing at **EisnerAmper**, a New York-based accounting firm, called poaching "a strategic risk with a powerful payoff because you get access to proven talent, a faster ramp-up, and it signals to your competitors that you are serious about your growth."

Poaching typically happens high up in the food chain, with a focus on a broker or senior executive who can potentially bring with them a large portfolio of business, industry observers say.

Norris McLaughlin's David Harmon

"These are tried and true producers with a book of business — and with the movement into a new company, the objective is to facilitate the acquisition of those relationships, and thus those accounts," Harmon said.

Poaching can be particularly helpful if the company is branching out into a new specialty service or product and has an urgent need for an expert in that area, according to **Mark Kluger**, a partner with **Kluger Healey**, a New Jersey-based employment law firm.

"If somebody has a great practice in construction [liability insurance] and an existing firm doesn't have a great construction portfolio, they may want to grab somebody who's a rising star at a competitor," he said.

'Poaching can feel personal'
A coveted individual or team can often be lured away with higher pay or signing bonuses, or new challenges — but they may be ready to make the move anyway.

"People don't leave because someone called. They leave because they were ready to pick up the phone," said **Angela Justice**, founder of **Justice Group Advisors**, a Boston-area executive coaching firm.

But sometimes, according to Voda, not even a fatter paycheck or enticing promotion can move someone to make the jump to a rival firm. "The decision to stay, despite a compelling offer, will often come down to loyalty to their team or a desire to complete their legacy," she said. And there are other factors to consider. The optics of being poached can be an issue, as well, since most high-level executives "are conscious of their reputation," according to Voda.

Targeted talent may also worry about engendering sore feelings with their former employer.

"Poaching can feel personal," Justice said. "In insurance, trust and relationships *are* the business, so losing a senior leader isn't just a talent loss — it's a ripple effect across clients, teams, and strategy."

Harmon noted that losing a top performer and their entire team can impact morale and may even inspire other employees to move toward the exit doors.

Many insurers — virtually all of which have deep pockets and dedicated legal teams — don't take such losses lightly, and may sue if they perceive a target of poaching may bring others with them.

"A targeted, intentional hire comes with a mind full of protected trade knowledge which can trigger legal complications with non-competes, non-solicits, non-disclosure agreements, and such," Voda said.

Poaching-Related Lawsuits Are Common

Whether to file a lawsuit is another question altogether, however. Kluger observed that it really depends on how the employee was bound to the company in the first place. If there is a non-compete clause in their employment contract, would a court of law find it "reasonable" — generally a two-year bar or less — and enforce it? Four states, including California, bar such clauses entirely, making it potentially impossible to enforce even if it is in place.

Justice Group Advisors' Angela Justice

Perhaps more critical are clauses barring the solicitation of existing clients after leaving. According to Kluger, those can run longer than a non-compete clause and tend to be more regularly enforced by the courts.

If such agreements are not in an employee's contract, the company losing the executive may still sue over intellectual property grounds. Medical insurers **Elevance Health** and **Molina Healthcare** got into a fairly public legal battle over trade secrets when **Vinod Mohan** was poached by Molina as its new head of Medicare operations in 2023. When Elevance sued, Molina countersued, commenting in its litigation that "undoubtedly, Elevance is vexed by the fact that approximately 20 of its executives have left Elevance and chosen to join Molina for better opportunities in the last few years." The suits were settled not long after they were filed, and Mohan is still with Molina.

Most of the fiercest legal battles are among insurance brokerages, where indeed a small number of employees can hand over millions of dollars of business to a rival overnight. **Marsh**, for example, sued **WTW** earlier this year over alleged poaching of employees. It filed another lawsuit in recent days against **Alliant**. **Aon** and **Howden** have also tangled in court over poaching allegations, as have **Gallagher** and **Alliant**. And those examples are just scratching the surface of such litigation.

Last year, **Ameriprise Financial** accused **LPL Financial** of hiring away its advisors and encouraging them to take confidential client information to their new jobs. And that lawsuit came just days after **Prudential** accused four former agents of improperly soliciting clients to transfer about $47 million in assets under management to Ameriprise.

Poaching 'Best Practices'

Given the risks of protracted litigation and the costs surrounding it, insurance companies looking to poach talent from their competitors should proceed with caution.

One arm's-length approach is to enlist a third-party — such as an executive recruiting firm — to make the initial queries.

"Using a third-party firm to target passive candidates will help maintain discretion, as well as structuring the role to avoid direct conflict with the executive's former employer," Voda said.

Insurance companies on the other side of the equation — those at risk of losing star performers to poaching — should consider ways to keep the target within the company. Kluger recommends offering some form of equity within the organization, whether through stock awards or another approach.

But creating a work atmosphere where highly productive employees feel welcome and valued may be the best way to keep them from straying into the supposedly greener pastures of a rival.

"Poaching only works when someone else's culture has already done half the job," Justice said.

EisnerAmper's Marta Voda