



PLANNING FOR SUCCESSION AT YOUR FIRM

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Firms other than solo need to plan for succession in two ways. The first is what I call the “finger in the hole in the dike” planning. That’s more appropriately called disaster planning. However, it is often tied to succession planning strategy for retirement, which is the second type of succession planning your firm should have in place.

If you’re a solo or very small firm, these issues may well be moot. For the rest of law firms, this issue is of high importance, but often poorly planned for, if at all.

Let’s start with the disaster planning aspect. If you step off the curb tomorrow and are hit by the proverbial bus, who is going to be able to jump in and service your clients? Is there someone at your firm who is sufficiently experienced in your area of law? Keep in mind that a modestly experienced junior lawyer can keep things going provided 1) you have designated someone more experienced, perhaps at another firm, to whom the lawyer may turn in such a situation; and 2) the lawyer has had sufficient exposure to your clients to ensure trust, and keep them from taking their file elsewhere in your absence.

The next question is more difficult. If you are hit by that bus– and let’s assume you are not able to respond to questions– how confident are you that someone else will be to jump in and identify deadlines, time-sensitive matters, locate all the contact information, documents and emails, determine the status of the file, and identify funds to be paid from trust account balances, unbilled time to be billed and outstanding invoices to collect?

Some of you may feel relatively confident. If you have case management software (CMS) and are using it properly, that is well-earned confidence. If you are using a personal productivity tool like Outlook, and have taken time to organize your vast store of information, you can also be confident.

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If your answer is “my secretary knows” you should not feel so confident. Depending on what happens to you, your secretary may be suffering PTSD and be less than helpful. Also, I get the occasional call from a firm which relied on the “secretary knows” method, only to have the secretary retire or fall ill, and before anything is done to better organize, the attorney is suddenly disabled. As the saying goes, “Man plans and God laughs.”

The most dangerous to continuity are those of you who feel you are really organized, but have no clue how unorganized you really are. If you want a reality check, ask the possible successor, or one of your partners, how confident he/she feels that if something happened to you tomorrow they could walk into your office, find the necessary information, and quickly step into your shoes. Most of you will be shocked by the answer. Oh, and expect a bit of laughter that you even had to ask the question.

Moving on, let’s talk about genuine succession planning. Sometimes referred to as passing the torch to the next generation. Sometimes referred to as the only method to get some sweat equity out of the firm upon retirement, other than outright sale. Trust me that your younger partners and all associates will be watching you in this area. If you show no signs of planning for succession, you will have a hard time retaining that talent. [For a copy of my article “Failed Promises, Failed Plans” which addresses that specific topic, send an email request to lawpractice@pabar.org.]

The most common reason people do not actively and adequately plan for transition is a fundamental fear that someone will leave and take their clients once someone has been helped to develop “front-line” relationships. Sure, it happens. But most of the time it happens for reasons you create without realizing you’re doing so. The above-referenced article explains that.

When you trust someone, you are at risk. I get that. It’s scary. But here’s the thing about trust; most people know when they are really trusted, and they respond in good faith. Here’s the other thing about trust; if you don’t trust those designated as possible successors, they will never become successful successors. It comes full circle. It starts with you.

You need to start actively planning for succession about ten years from when you think you want to retire. That’s when you start to look around at your firm in its current state and ask whether there is anyone there who might be in a position to take over your practice areas when you retire or seriously scale back. You may



need to decide which areas are likely to continue to flourish with the right talent in place, and which are likely to cease.

Depending on factors like competition, profitability, and learning/skill curve, you may decide that you first need to specifically address continuation for a practice area which might cease. That can take longer, because you may have to look for a lateral hire, and that can take a while.

Also, you may realize that your firm does not have adequate talent on board. In that case, you may want to consider bringing aboard a newly minted attorney far enough in advance to be sufficiently experienced when it's time to begin actual transition.

Assuming you have talent on board, or have taken the step to bring it on board, the most active transitioning work starts about five years from when you think you want to retire. It will apply to current clients, past clients, referral sources, and your spheres of influence in the community.

The successor should have increasing front-line exposure with clients. The goal is to get clients sufficiently familiar with and comfortable with the successor, such that he or she gets calls directly from the client on matters assigned. A really good sign that the transition is successful is when they call the successor directly with new matters.

Former clients can and should be exposed to the new attorney by various types of communication; newsletters, e-newsletters, blogs, alerts, and so forth. Even the annual "holiday letter," which is so rare nowadays it can be totally charming when well written. In many cases, if you have not made it a habit of staying in touch with former clients, you may find that they return for additional work, or refer new clients to the firm. Where former clients are concerned, out of sight is out of mind. Never a good thing.

Transition of referral sources takes more thought and consideration. At first blush many attorneys conclude that their referral sources are so personal in nature, they cannot be transitioned. But I hear frequently that with some planning and time investment in arranging social meetings, success happens a lot more than anticipated. Also, chances are that a lot of your referral sources are actively working on a transition themselves. So how about trying to introduce the two successors?



Lastly, you need to identify the various spheres of influence in which you participate in the community. I have always believed that people should participate in those groups which they want, and never be forced. So in this regard, identify each sphere and discuss it with your successor. Explain what you have gained from participation over the years, both in personal growth, and in professional gain. If your successor is interested, sponsor him or her in attending events sufficient times to enable further participation on his or her own.

Remember, you can never guarantee success in transition. It is important that you plan it out, actively calendar events and meetings, make the introductions, and assign the work. Ultimately it is up to the successor to take advantage of the opportunities, to forge the lasting relationships, to engage clients and earn their respect and trust.

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