



Freedman Consulting, Inc.

— CHANGE . . . RESULTS . . . SUCCESS —

SHOULD YOU STAY OR GO?

Ellen Freedman, CLM

© 2023 Freedman Consulting, Inc

At least once in their careers, all attorneys reach a time when they must determine whether it is in their best interest to stay where they are or leave for what may be greener pastures. To be sure, this same statement applies to just about every employee in most industries. But attorney DNA makes it a particularly vexatious decision process.

Not everyone is blessed with the ability to see all the variables clearly. Some are so deep in the forest they don't recognize individual trees. External pressures may obscure many important considerations. Emotional upheavals or insecurities may cloud judgment as well.

This article is written with the intention of helping those of you who are in the throes of this analysis or will face it in the future. For those of you who have gone through this, I ask that you take a look through the lens of hindsight and share with me what other fine points I may have missed in my analysis. Future attorneys facing this inflexion point will benefit, I promise.

What are the considerations to take into account? First, let's talk about recognizing when it may be time to go. Here are some fairly strong indicators:

- Are you generally happy going to work? Or do you dread it? Are there abrasive personalities you must endure? A crushing workflow? A toxic culture? Substandard tools? Inadequate support staff? Unwillingness to provide schedule flexibility? Any combination of these factors is sufficient cause to explore alternatives.

SHOULD YOU STAY OR GO?

Page 2 of 4

- Are you getting sufficient interesting assignments? Are you advancing your skills? Or are you feeling you're stuck in a rut never getting the choice assignments you want? Do you feel your expertise is not advancing?
- Is the firm healthy and growing, or in decline? Is there active succession planning taking place by one or more of the senior owners? Are they working on transitioning client relationships? Are they helping you grow your own book of business? Or are they just keeping you on until they retire, or die with their boots on, at which time you must inevitably search for employment because you won't be able to maintain the client relationships on your own?
- Have you hit a ceiling beyond which you cannot advance? Are others around you passing you by? Have you been bypassed for partner one or more times? Are you lacking in concrete feedback to tell you whether and when you might advance further? Have new hires younger than you come aboard — perhaps a relative of the owner—who will clearly take the spot you envisioned might some day be yours?
- Do you enjoy working with and respect your co-workers? Is there an atmosphere of teamwork? Or is it a highly competitive, back-stabbing, undermining, uneasy co-existence?
- Are you fairly compensated? Notice I didn't ask if you feel you are adequately compensated. Because 99% of attorneys will say "no!" Fortunately, there are compensation studies to review in order to get a sense of where you are relative to others. Of course, a good headhunter can give you a range for your compensation given your geographic location, credentials, and actual experience.

Think as clearly as possible about what is keeping you at your current position. How many of the above are issues for you? Be honest.

I find that attorneys can have lots of indicators that it's probably time to go. But many don't actively look to make a change. Why?

An obvious answer is that it takes effort. And sometimes we can be downright lazy about actively mapping out our future. Sure, it's not great. But it's a job, and the bills are being paid, and it's just easier staying put.

Loyalty can be a big factor for some. Remember, though, that loyalty isn't always reciprocal. Just because someone gave you a job when no one else would, or taught you everything you know, doesn't create a debt for life. I do believe in loyalty to a point; read on to find the appropriate way to demonstrate it.

SHOULD YOU STAY OR GO?

Page 3 of 4

Risk avoidance is a big factor. The devil we know is thought to be better than the one we don't. We could misjudge and make a leap from the fry pan into the fire. Yes, it could be worse. But if you do your assessment carefully, you will usually wonder afterward why you took so long!

Fear should never be underestimated as a base emotion that keeps us from actively seeking a better situation. If word gets out we're looking, we might wind up getting terminated. Or get less and worse assignments. Or not get our bonus or a raise. Or get bypassed for advancement.

Before you begin the process of looking, do an assessment based on the considerations above. Write down your frustrations. Categorize them. Then ask yourself what changes and improvements would have to happen in order for the relationship to improve sufficiently for you to stay? The best and highest demonstration of your loyalty will be in communicating about these difficult issues and trying to reach satisfactory resolution(s).

If you have clients, or service another's clients, turn your focus there early on. If you leave, how likely is it that the majority of your clients, or any of another's clients, will follow you? The answer to that will determine what other options you may have available if you leave. Assess whether you can set up your own firm, versus joining another firm as of counsel, associate, or partner.

Make sure that you don't act too quickly based on emotion. Emotions ebb and flow. And they can obscure seeing facts and asking the right questions. You certainly want your rational brain fully engaged as you ask questions of and perform due diligence regarding potential firms.

Be sure to talk to those you know and trust. Reach out to your inner circle of confidants, and your spouse, and incorporate their suggestions and perspectives into your stay/go analysis.

Consider talking to a career counselor. I have referred many attorneys to coaches who help walk them through this process. And I have counseled many PBA members through the confidential hotline.

If you conclude it's time to go, do a few things while you're exploring your options, but before taking the plunge. Look at your employment contract or partnership agreement. Maybe consult an employment lawyer or ethics lawyer about how to best end the relationship with your firm. Be sure to discuss unearned fees in trust and how to resolve open matters which are contingent or flat fee work.

SHOULD YOU STAY OR GO?

Page 4 of 4

Analyze and “know” your billing and revenue history. Know the location of any original documents, and all open and closed files. Make sure you have the necessary contact information to make your ethically mandatory notification to clients in case your firm won’t cooperate in a joint notice.

(Read the PBA Committee on Legal Ethics and Professional Responsibility, Philadelphia Bar Association Professional Guidance Committee Joint Formal Opinion 2007-300, June 2007, “Ethical Obligations When a Lawyer Changes Firms.” Visit <https://bit.ly/PBAEthics>.)

Figure out what type of firm will provide the best environment. Then search for it. (Hint: I can help you figure out the right questions to ask.) Remember, cultural “fit” is extremely important. Personally, I think it matters more than compensation, where your long term happiness and ability to thrive are concerned.

A version of this article originally appeared in the February 20, 2023, issue of the Pennsylvania Bar News.

© 2023 Freedman Consulting, Inc. The contents of this article are protected by U.S. copyright. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer, or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only and does not constitute legal advice or endorsement of any particular product or vendor.