

## **Who Will Have your Clients? Succession Planning for Lawyers**

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As you read this publication or other legal publications regularly, you probably have seen many articles about estate planning, and hopefully you have made some arrangements for your estate. I will assume you have an up to date will, you have made decisions about your assets, and you have considered arrangements that you would want to make in the event of an unforeseen disability. It is certainly possible, if not likely, that you work in a law firm that has a corporate succession planning practice. Or if not a formalized practice, it may be something that your employment, business, or tax departments count among their areas of expertise. The question is this: Are you applying this planning process to your own practice?

Although you may have made plans about other aspects of the latter part of your life, it is less likely that you have made plans about how you might want to transition your clients at the time of your retirement, or a life-altering event. The idea of 'giving' your clients away may seem almost ludicrous, and in current times, when you have worked so hard to create that sustained relationship, it may seem crazy to think about how you might want to end that relationship.

For you, or for your employer, aspects of your future may well be tied to how effectively you manage those relationships in the long term. According to a recent commentary on National Public Radio, 82% of businesses both large and small have no real succession plan. The last thing that you want to do as you transition out of full time practice is to leave large amounts of client business exposed to competitors, and to leave the relationships and the financial rewards that you have worked so hard to sustain, on the table.

### **Transitioning Business within your organization**

The baby boom generation is the largest in numbers in this country's history. Everything that we do has waves of repercussion in business. And, sooner or later (and sooner for some) this group of highly educated, high earning professionals will make changes in their level of commitment to work. Many now are considering how (and if) they may retire. The way in which they handle this transition out of the workforce may have a significant impact on their retirement, and on the future of the business they are leaving.

How do you determine what attorney/s should handle the client business that you anticipate eventually leaving behind? In some instances this may not be a problem. If this is anything other than a client for whom you have been working strictly as an individual, there are other attorneys who have been working on this client's matters. You should plan to make a transition to creating opportunities for greater exposure of your colleague to the client over a period of time eighteen months to two years prior to the time you anticipate taking a reduced or retired status. Although it may appear logical to put the most senior person available at the ready for this future relationship, it is important to gauge the fit that exists between the colleague and the person taking over the relationship.

- Does the person in line for the business have the skills necessary to serve the client well?
- Does the person who will take over the business have the best relationship with the client of anyone in the firm?
- What are the plans for the client's business, and what is their succession plan?

In many instances of long-term business relationships, the relationship between attorney and client is between peers, and at least some of the relationship is likely to be based on personal contact and friendship. If the person who makes decisions about hiring legal representation on the client side is also approaching retirement, another person in the company may be the individual who will eventually be making those decisions. What kind of relationship does the up and coming attorney have with those who are likely to be making legal hiring decisions in the not too distant future?

Without thoughtful planning and foresight, you are unlikely to retain and sustain this relationship over time. One of the reasons that the planning process will require several years, is to insure that the client sees a seamless shift in the handling of their legal business. Anything less can signal instability, and leave you open to exposure to losing the business to a competitor who may be more likely to spot this impending change before you have chosen to deal with it in a proactive manner.

### **How to Transition Business with your Clients**

As an attorney, you know that you help your clients assess risk, avoid exposure and achieve business results. How will your leaving the practice of law impact your clients' business, and how can you mitigate risk or concern about the future on their behalf? Prior planning is the greatest tool that you have available to make this process seamless.

Just as you anticipate potential problems on your clients' behalf, it is important that you anticipate how your slowing your practice or retiring will impact your client. Just as you guard against surprises that might occur in legal areas of client work, you want to insure that there are no surprises in provision of legal services on behalf of your client. Somewhere between eighteen months and two years prior to your changing your status in practice, you should begin transitioning the business to someone else in your firm. If you are a senior attorney, you probably have already introduced your client to other attorneys at your firm, or if it is a large client, you have already had other attorneys working on their business. Face to face meetings are critical for a decision this important to your client. If you are aware of internal changes or potential changes in your client's business, it is important to make sure that all appropriate parties meet and get to know one another. Work to create opportunities to include all parties in subsequent meetings. Although it may be more costly to your firm in terms of non-billable attorney time, it will help cement relationships that will help you continue to generate revenue in the future.

### **The Financial Arrangements**

In addition to creating a good succession stream for your business, and insuring your client's comfort with upcoming change, you will also want to determine agreements with your partners about fees for transitioning business. If the client relationship has originated with you, and you handle the transition on behalf of your firm, there is no reason that you shouldn't benefit in some way from those revenues during your transition into retirement. In terms of future revenue, prior to beginning this transition

process, look to your partnership agreement. What terms exist to transition the revenue from your practice to that of your partners? If such terms do not exist, it is better to create them prior to the time when you want to execute. The more neutral the circumstances, the easier the process will be.

If you are a solo practitioner, or in a small practice, you may want to sell your practice. There are rules governing this process, and the ABA may be making changes regarding practice sales. Make sure that you are informed about the ethical and financial considerations in making such a decision before you start the process.

### **What if you're the person retiring?**

What can you do to think in a proactive manner about transitioning your clients? First, you have to acknowledge the fact that at some point you will want to work differently, or not at all. If you are like most attorneys who have had a demanding professional life with long hours, great responsibility, and a high level of commitment, making a change in your career or acknowledging that your career as you have known it is ending can be very difficult. But leaving the practice of law is not just an ending, it is the beginning of a new phase of your life that leaves you open to a great number of possibilities. Some lawyers face the prospect of retiring from practice with a great deal of excitement. Retirement from practice can offer you the opportunity to spend time doing a number of other things. Many professionals look forward to the prospect of pursuing an avocation in a more committed manner, considering involvement in other business ventures, spending more time with family and friends, traveling more, or moving to another locale. Unless and until you determine how to leave your practice in good hands, it will be more difficult to create the mental space necessary to think about your new future.

### **What if you have partner/s nearing retirement?**

Many people find it difficult to talk about retirement plans, but when your firm's business and finances are at stake, failure to talk about these issues can be a costly mistake. If your partnership agreement doesn't offer any specifics about retirement issues, now would be a good time to visit this part of your business planning. If you are in a small firm, or solo in a shared office arrangement it is very important that you think strategically about the manner in which you want to make client referral, and the implications for the people for whom you have been working.

Your comfort level with your new future, and your firm's advance handling of transitioning your business will have a significant impact on the likelihood that your clients will remain with the people to whom you refer them. They're your clients. Treating the transition of their business with the same care that you have treated them as clients over the years is more than good business, it's how you came to have them in the first place.

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