Succession Planning:
How Law Firms Prepare for the Future Today

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"*Successful professionals will reorganize their historical behaviors into more effective, market-driven, service-oriented, and client-friendly fulfillment strategies focused upon the client's values, needs, issues, and characteristics. Ignoring these differentiating elements will likely result in considerable frustration and demoralizing loss of clients, as well as significant missed opportunities.*" **- Dirk R. Dreux IV and Joe M. Goodman, Business Succession Planning and Beyond**

While there are many issues facing law firms today regarding successful succession planning, this review is limited to issues firms most often meet as a new generation of lawyers becomes responsible for the success of their firms. Based on our work with small to mid-size law firms across the country, there are several strategies to be considered and implemented to help firms face the future with useful knowledge and confidence.

Many law firms today are looking at the future with trepidation and uncertainty. In many small to mid-size law firms, the founders, and/or senior attorneys of the firm, are planning for retirement while the rest of the lawyers in the firm are operating without the knowledge and insight of the senior attorneys. Without careful planning, these firms may also be facing their future without the clients whom the senior attorneys have serviced for many years. Firms that have successfully implemented transition plans began the planning process early and managed it effectively. It is essential for lawyers who are responsible for firm management to begin to develop and implement their plan several years in advance of senior lawyer retirements. They must also prepare strategically to ensure that the future of the firm is controlled by those in charge rather than those in charge being controlled by circumstances.

There are two essential elements of a successful succession transition within a law firm. The first is to move clients from one generation to the next. The second is the transition of firm management to a new generation. One element is not necessarily more important than the other, however, what is important to remember is that both elements must take place in order for law firms to continue successfully.

Firms that develop and implement a succession plan are far more effective in converting both the management of the firm, as well as the clients of the firm. In developing the succession plan, firms should review their current professional staff, request senior attorneys to share their retirement plans with the firm, determine the effect of the retirements on the firm as a whole, develop a time line for retirement of senior attorneys, and outline a plan of action to ensure that management transition is effective.

Depending on the structure of the firm, there are different ways for firms to shift their management responsibilities. Assuming the senior attorneys are actually responsible for the management of the firm, it is essential that senior attorneys involve younger attorneys in management early in their careers with the firm. Firms should begin training young lawyers in management after they have been with the firm between two to three years. There are several different ways to integrate young attorneys into the management activities of the firm:

- X Share the firm budget with all lawyers during a financial meeting. Partner compensation or other personal information would not ordinarily be included in the information provided to associates.

- X After attorneys have been with the firm for two to three years, involve them in special committees within the firm. Assigning specific tasks to each attorney within these committees will test their ability to organize and handle tasks. If the committee has a budget, include the young attorneys in the budgeting process.

- X Involve young lawyers in the recruitment of associates to the firm. They should not only be included in the actual recruitment process, but also in the discussion evaluating whether the firm needs additional lawyers. This involves them in a significant management role, and is an effective method of attracting young lawyers to the firm.

- X Designate young lawyers as the "manager" of the paralegals within the firm. They can be responsible for organizing the firm. They can be responsible for organizing and coordinating the work, developing systems, and assisting in the evaluation of paralegals. They can serve as the "go to" person for questions from paralegals.

- X Involve young lawyers in the development and implementation of the firm's orientation and training/mentoring program. Young lawyers who have been through the current firm orientation, training, and mentoring system can provide feedback and input to enhance the current program, or develop a program where one is not present.

- X Take associates to lunch with clients. This enables them to watch, develop and implement various marketing strategies. This involves younger attorneys in the client development and marketing aspects of the profession. They can learn from the senior attorneys and begin to develop a sense for which "rainmaking" methods they would feel comfortable implementing.

Perhaps the most critical element of the succession plan is how to identify those younger attorneys who demonstrate the skills and abilities needed to become effective firm managers. The detection of these skills can start as early as during the recruitment of associates to the firm, but should also take place in the first few years of their employment with the firm. In order to prepare younger lawyers for management roles, they must first be identified as having the personality or ability to manage people. They must also have the ability and skills needed to become good managers.

To recognize young lawyers with management qualities, firms must first decide what skills they seek. To do this, they should create a description for each of the management positions in the firm filled by lawyers. The description would establish the duties of the position. This position description would also contain the qualifications and the skills necessary to meet the demands of the role.

Once these descriptions are agreed upon, the pyramid approach regarding management should be implemented. At the outset, consider all young attorneys as possible candidates for management positions, then eliminate those lawyers who do not meet the leadership and management criteria as outlined in the position descriptions. During the evaluation process, the associate's committee work, marketing ability, skills demonstrated, etc. should be considered.

Firm managers are leaders of the firm. They must possess the ability to gain support for ideas, build relationships with others in the firm, and gain the trust and respect of those they lead. When identifying future leaders, management can also consider the personality of candidates. Questions such as "Does this person have the respect needed?", "Does this person treat others with respect?", and "Does this person treat the staff with dignity?", are essential in determining if the candidate will someday be a leader of the firm.

Another good source of information during the evaluation process are the mentors of the young attorneys. Mentors have, or should have, a good sense of the skills of their "mentees." The mentors should be aware of the leadership and management criteria, and then compare the requirements with the qualifications of the young attorney they are mentoring.

If firms regularly identify future leaders, and involve them in the succession plan, they will position themselves to continually develop and evolve the firm successfully. Management transition is not a one-time event, but a continual methodic implementation of strategic planning to insure the future of the firm.

Developing and implementing a transition plan for the management of the firm is one element of succession planning. The second element is moving clients from one generation to the next. There are many firms that are unable to overcome the obstacles to do this. Shifting clients is not an individual responsibility but a firm responsibility. To effectively transfer clients from one generation to the next, the individual lawyer, with clients, must work together with the firm to insure the clients receive quality legal services throughout the transition process. Both the individual lawyer and the firm must be committed to keeping clients in the firm when the senior attorneys retire.

There are many obstacles to the effective transition of clients:

- X The firm's complacency regarding the relationship between the responsible attorney and the client.
- X Clients who are uncomfortable with other lawyers in the firm doing their legal work.

- X Other lawyers in the firm not being familiar with the client's business.
- X The point lawyer providing poor legal services to the client.
- X Senior attorneys who do not include younger attorneys in meetings with their clients.
- X The compensation system not rewarding attorneys who transfer their clients.
- X The point lawyer not identifying the appropriate lawyer successor for the client to work with.
- X The point lawyer not listening to the needs of the client.
- X The point lawyer being unaware of a transition of leadership within the client business.

Firms can overcome these obstacles, but they first must be aware these issues exist. Then they must be prepared to do something to eliminate the obstacles that can cause the firm to falter in its transition program. To avoid the obstacles outlined above, firms must:

- X Review the firm's roster of clients on a regular basis, preferably every two years, along with the attorney who is primarily responsible for the work done for those clients. This will enable all lawyers to be familiar with the client base of the firm, as well as who is responsible for each client. The firm can then identify clients who will be in need of new representation from the firm when their primary attorney retires.
- X Develop and implement an effective training and mentoring program of young lawyers that insures the firm is preparing a replacement for the attorney who will retire in the near future.
- X Create and implement a communications program that allows all lawyers in the firm to be familiar with and have knowledge of all clients within the firm. This will accelerate the transition of the clients when it becomes necessary.
- X Perform a review of the firm's compensation system to insure it rewards the transition of firm clients.

To assist senior attorneys who are transferring their clients, many firms provide a reasonable budget for senior lawyers to use in this transitioning process. The support by the firm encourages senior attorneys to commit the client transition.

It is also important for firms and the retiring attorneys to develop and implement a financial plan for the retirement of senior attorneys and the shifting of their clients. Prior to the beginning of the year when a partner seeks to reduce his/her workload, the retiring attorney should meet with the management committee, managing partner, or Partnership (depending on the management structure) and propose his/her workload for the following year. If the senior attorney does not come forward, it may be the responsibility of the management to ask what senior attorney's retirement plans include. The compensation of the retiring attorney would then be reduced in the same proportion as proposed in the reduced workload schedule. Transitioning senior attorneys should still be eligible to participate in the bonus program according to the prior guidelines of the bonus program.

Firms should work with senior attorneys at least five years in advance of their full retirement to insure that the transition is complete when the senior attorney leaves the firm. An example of a process to retain clients of a retiring partner includes:

Year One - Fees from the retiring partner's clients: retiring partner receives 40 percent, firm receives 40 percent, and working partner receives production credit up to 20 percent of fees.

Year Two - Retiring partner receives 30 percent, firm receives 50 percent, and working partner receives production credit up to 20 percent of fees received.

Year Three - Retiring partner receives 20 percent, firm receives 60 percent, and working partner receives production credit up to 20 percent of fees received.

Year Four - Retiring partner receives 10 percent, firm receives 70 percent, and working partner receives production up to 20 percent of fees.

Year Five - Firm receives 80 percent and working partner receives up to 20 percent of fees received.

The firm should also consider that in year four, the retiring partner can negotiate an employment contract with the firm that would produce sufficient income to cover the retiree's office expense and provide income to him/her.

The transition of clients will not happen in the firm if the senior attorneys do not buy into the succession plan or feel that they are not supported by the firm. Open communications between the retiring attorney and the firm is essential if the firm wants to insure the future relationship between the firm and the retiring partner's clients.

Time can either be a friend or a foe when implementing effective succession plans. If firms start early enough, they can plan for a future without current senior attorneys. If they wait too long, firms become reactive and don't have the time to review their situation, plan strategically, and implement effectively.

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