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BEST PRACTICES

Start 2024 By Considering The Synergy Between Retirement and Succession Planning

Attorney retirement and succession planning are critical issues that are often overlooked at the management level of law firms. A key question arises: What should come first, retirement or succession planning? Although they go hand in hand, many firms avoid addressing both.

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Succession Planning

By Sharon Meit Abrahams | January 05, 2024 at 08:40 AM



What You Need to Know

- Many attorneys of retirement age resist retiring, a contrast to the general anticipation toward it.
- Retirement and succession planning are essential for the sustainability and growth of small law firms, as well as for the well-being and satisfaction of the senior attorneys.
- To encourage attorneys toward retirement, firms should help them grapple with what they will do next.

This past year, I spent time with small firms discussing their future, focusing on the topics of attorneys retiring and succession planning. These critical issues are often overlooked at the management level of law firms. A key question arises: What should come first, retirement or succession planning? Although they go hand in hand, my experience shows that many firms avoid addressing both.

Surprisingly, many attorneys of retirement age resist retiring, a contrast to the general anticipation toward it. I explored what makes attorneys unique in this regard. The author of *Retirement by Design*, Ida Abbott says, “Lawyers who have something to look forward to in retirement and realize they have many options ahead, readily plan for it. But some lawyers have worked so long, so hard, and so successfully, that their work has become their primary source of purpose, value and identity.” From discussions with firm leaders, four main reasons for this resistance emerged:

1. Loss of identity
2. Reluctance to leave
3. Fears about transitioning
4. Failure to succession plan

To encourage attorneys toward retirement, firms should help them grapple with what they will do next. Appointing a key leader, an outside consultant, or a coach to meet with senior attorneys starting around 60 years old can be effective. These individuals should discuss whether the attorney can afford to retire, determine if they are psychologically ready, and, most importantly, if they are emotionally prepared for the next phase. Consider these questions to engage senior attorneys:

- How is your current health?

- If married or with a significant other, how does your spouse/partner feel about you retiring?
- Do you want to leave a legacy or spend all your money?

Retirement can be a daunting transition, so candidates need as much support as possible to move forward.

Envisioning activities like writing a mystery novel or playing tennis daily can make retirement more appealing. Firms can assist their attorneys by introducing them to new and interesting activities they can pursue post-retirement, such as:

- Starting a new career after leaving law practice.
- Relocating to an area or country with a lower cost of living.
- Spending more time with family, especially grandchildren

As attorneys approach retirement age, the firm should encourage them to step back from regular practice and focus on other ways to use their experience. David Ernst, of Ernst + Bernick LLC, retired after 30 years of practice and became a consultant focusing on law firm succession planning, said he decided to “start consulting in this area after completing [his] own succession journey because [he] wanted to help normalize discussions around succession planning in law firms.”

“Having a fair, transparent and effective retirement planning process is in the firm’s interest,” stresses Abbott. She adds, “Managing partner retirements increases the firm’s chances of retaining those partners’ clients.” This is the key to ensuring a firm’s future.

Just as firms often avoid retirement planning, they also resist succession planning due to fear of difficult conversations. However, they must establish a succession planning process. A succession plan identifies which attorneys will transition client relationships once an attorney decides to retire. The potential replacements should be groomed through client meetings, case/matter discussions, understanding the client’s goals, and managing the relationship. This task requires finesse in human relationships and can take years to transition a client relationship successfully.

Due to various fears, including potential hurt feelings, firms often avoid these conversations. It’s a stressful decision for attorneys to consider the end of their professional careers. Clients also need time to feel comfortable with a new relationship. To formulate a client succession plan, the firm should ask:

- Which attorneys are currently serving your clients? If none, who can be introduced to the relationship?
- What types of training and mentoring will these attorneys need? How long will that take

Starting the conversation is crucial as the ABA Model Rules, and several other jurisdictions, include a comment in their Rule 1.3 stating that the duty of diligence may require a lawyer to develop a succession plan. This empowers firms to pressure attorneys to start the process.

Selecting the best candidates for succession involves considering the character, background, experience, and shared vision of the potential successors. Once identified, the successor needs to be developed and coached to maintain and grow the client relationship. For small firms, this can be challenging as there may be limited viable options.

My recent conversations with managing partners revealed that in some cases, there is no one at the firm ready to step into the role within the next two years. To prevent this, the process should start early, allowing associates to be developed five to seven years in advance. Abbott notes, “This facilitates the succession of younger partners and prevents them from becoming discouraged and leaving.”

Small firms, particularly those with founders or senior attorneys as managing partners, are now recognizing the need for leadership succession planning. In small firms, there may not be a pool of potential managing partners to groom. As baby boomers age, there are small firms with managing partners wanting to retire in the next two to five years but no one to step into the role. Managing a firm requires business acumen, leadership and communication skills, and a significant amount of self-confidence.

Leadership succession planning is not a new concept, but it requires effort. Once candidates are identified, they should receive training in:

1. Leadership skills to enhance their ability to lead the firm effectively and strategically.
2. Business development at a higher level so they understand how and why attracting new clients to increase the firm's revenue and reputation is critical.
3. Law firm management covering topics like creating a business plan, setting a budget, overseeing operations, implementing policies and procedures, and ensuring compliance and quality standards.
4. Partner relations so they recognize the value of communicating clearly and frequently, soliciting feedback, resolving conflicts, fostering collaboration and trust, and recognizing contributions and achievements.
5. Succession planning to identify and prepare potential successors for themselves and others in the firm.

This past year I learned that some firms have no one who can step up into the managing partner role. Roy Ginsburg, an attorney turned consultant, highlights signs when a small law firm owner should consider selling. The reasons include:

- Lack of business acumen among the attorneys to manage a law firm.
- No appetite for the risks of owning a law firm.
- Unwillingness to make short-term sacrifices for potential long-term gains.

Selling may be the only option for a small firm that failed to plan for succession.

Retirement and succession planning are essential for the sustainability and growth of small law firms, as well as for the well-being and satisfaction of the senior attorneys. However, many lawyers face emotional and practical barriers to retiring and passing on their roles and responsibilities. By providing guidance, support and incentives, firms can help their senior attorneys overcome these challenges and embrace retirement as a positive and rewarding transition. This will also benefit the firm by ensuring a smooth transfer of knowledge, clients, and leadership to the next generation of lawyers.

Dr. Sharon Meit Abrahams is a legal talent development expert with more than 25 years of experience working with lawyers and firms to increase productivity and profitability. A member of the Board of Editors of *Marketing the Law Firm*, she provides her coaching and consulting through Legal Talent Advisors, LLC. She coaches attorneys to embrace succession planning and retirement.

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