

Planning for Succession Planning

By Alan R. Olson

Succession planning is one of those management issues that often does not get attention until a senior partner or rainmaker announces plans to leave or retire – and then the firm goes into crisis mode.

A smart law firm will plan for a broad spectrum of issues associated with senior-level partners' departure from practice, before that crisis occurs. These issues may include: client service and client relationships; practice skills and expertise; firm governance and leadership roles; or functional management roles and experience. Many of these issues are long-term in nature. It can take years or decades to build new client relationships to replace outgoing expertise, or to develop new people for key governance roles.

A DIFFICULT SUBJECT

Because most lawyers routinely consider the long-term perspective when counseling their clients, one would think that taking the long view would come naturally to them when contemplating their own firms' future. Not so. Many firms do little in the way of long-term succession planning from management, practice and client service perspectives. Even law firms that have broached the financial aspects of retirement planning may avoid an expanded view of succession planning.

Individual lawyers also tend to avoid thinking of retirement planning because it is uncomfortable, or leads to

uncomfortable issues. Many lawyers believe they will practice until the day they die. In reality, of course, most are likely to experience a gradual reduction in time or energy devoted to practice. Or, as studies show, the onset of illness or disability may alter an individual's plans.

Law firms are just as prone to collectively avoid the subject as are individuals. If a senior partner alludes to his or her plan to work actively until retirement – no one wants to say, "But you'd better start delegating more in advance of that date."

Such issues can be even more excruciating in small and mid-sized firms, because the issues seem so personal. It's not a policy decision, it's telling a friend and colleague that it's time to start winding down his or her professional career.

PLANNING FOR SUCCESSION PLANNING

Firms of all sizes should seriously consider establishing a broad-based, formalized view of succession planning. Properly formulated, the approach itself may make it easier to broach sensitive subjects, using planning methodology and long term planning horizons.

Using a long range planning protocol, the implications of a senior lawyer's phase-down or retirement can be identified and translated into critical planning areas. For example,

using a planning horizon of five to ten years, the firm's thinking should include the effects on:

1. Substantive legal expertise and range/blend of specialties
2. Client retention
3. New business development
4. Firm management and leadership
5. Practice/departmental management and leadership
6. Profitability and cash flow

Legal Expertise

Advanced training may require many years. One or more lawyers should receive active, high-level mentoring in anticipation of a particular partner's retirement. Since not all lawyers are interested or adept at training, the firm may need to provide incentives to partners to mentor more junior lawyers or provide junior lawyers with particular substantive training to make it happen. If a senior lawyer approaching a phase-down has a blend of specializations that is unique to the firm – for example, a corporate lawyer with tax specialization – the firm may need to consider adding a lawyer, in addition to training.

Client Retention

All client transitions are not created equal. Depending on the relationship, lawyers should consider the following planning approaches to client retention:

- Clients who can be transitioned relatively easily, in one meeting. (“Here is Joan Smith, an experienced lawyer who has been with our firm for many years, and in whom I have complete confidence. You’ll be in good hands. And of course, if you have any questions that I can help with, I’ll be available during the next two years.”)
- Clients who are perceived to be ultimately amenable to a transition to another lawyer or lawyers in the firm, but who will require some time to feel comfortable. In these instances, it is important for the transitioning lawyer and the firm to begin the process earlier rather than later. That way, if there is initial resistance, or if the chemistry between client and the new responsible lawyer is problematic, the ongoing relationship may still be salvageable.

- Clients who identify so closely with the transitioning lawyer that it may be difficult to achieve a new relationship, even over time. In such circumstances, it is important to identify the elements of the client's reliance on the particular lawyer, and then seek to replicate those elements with another highly qualified lawyer or team.

New Business Development

The stature, ability, and drive to develop new business are a precious combination. Considering the range of styles, contacts and abilities of top rainmakers, it may not be realistic to think that these can be replaced. Nevertheless, firms need to anticipate the sometimes major changes that can result from the retirement of a principal business developer and make (generally long-range) plans to retain the contacts, the clients, the abilities and even the vitality, that is departing the firm. Retention of contacts and clients can be approached using the client retention strategies described above.

Firms should strongly consider ongoing training of lawyers in professional marketing and business development techniques in order to achieve maximum marketing strength and know-how at an institutional level. Done properly by experts knowledgeable about law firms and their clients, such training can also impart the philosophies and energy necessary to make business development happen in the firm.

Firm Management and Leadership

Because senior-level partners may occupy management roles, law firms should consider managerial gaps that may occur when a senior lawyer leaves the firm. Training or acquisition of knowledge and skill-sets may be critical.

The many tangible and intangible elements comprising leadership are more difficult to address in assessment and planning. Law firms may be appropriately concerned that a retiring senior partner's leadership will be sorely missed, and, in that sense, irreplaceable. This issue may be more acute with smaller firms.

While the planning protocol is not a magic wand, the process can help firms assess and deal with the change. In addition, the awareness generated during the planning may help to identify others able to assume greater leadership

roles, some of whom may not step forward without being asked.

Practice Management and Leadership

Generally, the same planning approach as that described above can be applied to management and leadership in practice management.

For assessment and planning, it helps to define the scope of law firm practice management, which can cover a broad area including: professional responsibility and ethics; client service; client acceptance procedures; case administration; work distribution and allocation; delegation and supervision of legal work; recruiting; orientation; training (including CLE) of lawyers and paralegals; performance evaluation systems for associates; peer review systems for partners; use of specialization; plus, training in any of the above disciplines.

A senior lawyer who is a strong practice manager may continue to contribute to the firm during a phase-out period, or, less often, after retirement in an of counsel capacity. For example, if the senior lawyer is gifted at training associates, he or she might continue to contribute, albeit in a reduced role, through training.

Profitability and Cash Flow

Obviously, it is important for law firms to anticipate the impact of departing lawyers on profitability and cash flow. Depending on circumstances, this may not require long range planning. Exceptions would likely include small firms, where the departing partner's proportion of revenues and expenses would be dramatically affected.

CONCLUSION

Law firms, like other organizations, can benefit from an expanded view of succession planning. Planning can greatly assist a firm in addressing the major gaps that may occur from the phase-down and retirement of key senior members.

The formulation of strategies that address these gaps will not only ensure the firm's success as its personnel changes, but will also create an environment in which it is far easier to broach the subject to aging partners.

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