

Transitions



Transition Planning For Lawyers

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Topics to be Covered

- ▶ Transition planning
 - ▶ Why transition planning is needed
 - ▶ Transition plans for solo and small firms
 - ▶ Possible options for transition planning
 - ▶ Your law practice has a financial value
 - ▶ Why some attorneys don't develop transition plans
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Transition Planning

- ▶ Transition planning is the development and implementation of a plan to protect your client, family partners/staff and continue your legal legacy
 - ▶ Transition planning is perhaps the most significant challenge facing “baby boomer” solo practitioners and small law firm owners
 - ▶ “Don’t judge each day by the harvest you reap, but by the seed you plant.”
Robert Louis Stevenson
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Transition Planning



- ▶ *" The time to put on a new roof is when the sun is shining." -John F. Kennedy*
- ▶ The time to start a transition plan is when you aren't in a hurry to get it done
- ▶ Transition planning is a process and includes these steps:
 - ▶ 1. Communication
 - ▶ 2. Developing a Plan
 - ▶ 3. Deploying your plan

Why Transition Planning is Needed





Why Transition Planning is Needed

- ▶ “If I slow down, stop working, become disabled or die who will make sure that my clients’ legal needs are served?”
- ▶ Caring for our client and protecting their interest
 - ▶ Out duty of competent representation required an obligation to protect our client and their interests
 - * Wanting to preserve our legal legacy
 - * Protecting and provide for our loved ones



Why Transition Planning is Needed

- ▶ Protection of the jobs of loyal staff and colleagues
- ▶ Protect, maintain and expand legal services to clients and Indiana communities
- ▶ A good succession plan is detailed, thorough and regularly updated.
- ▶ **Summation-Transition planning may not be the most enjoyable or glamorous task to undertake, but everyone will benefit by you taking steps now**



Transition Plan-Partner in a Law Firm

- ▶ Assumption-partnership or operating agreement addresses retirement and buy-out of partners
 - ▶ Open communications with your partners
 - ▶ Plan-making a good transition by your clients, your law firm and you
 - ▶ Transitioning clients to another partner or associate attorney
 - ▶ Moving to an Of Counsel role
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Transition Plan-Sole Owner of a Law Firm

- ▶ Unique issues for Sole Owners
- ▶ Surrogate Attorney Rule: Adm & Disc Rule 23, Section 27 in the event of a death, disability or inability of the lawyer to act
- ▶ Rule 1.17 of Rules of Professional Conduct-Sale of a Law Practice

- ▶ Two-step Process
 - ▶ 1. Sell or gift a partial interest in law firm to a successor associate attorney(s)
 - ▶ 2. Sell remainder of law firm to successor associate attorney(s) at a later date



Transition Plan-Sole Owner of a Law Firm

- ▶ What do you want to accomplish?
- ▶ What is your timetable?
- ▶ *(There are several routes for phasing out a solo practice-and in the ideal, you will have your route charted out well in advance of actually closing the doors.)*

Possible Options for Transition Planning





What options do you have?

- 1. Law firm-younger partner(s) or associates assume greater responsibilities
 - 2. Transition to an “Of Counsel” role with your firm or another firm
 - 3. Mentor “junior attorney” for a few years, then transition law practice for value
 - 4. Sell Law practice (or part of practice) outright to another attorney or law firm
 - 5. Merger with another attorney or law firm
 - 6. Wind down and close law practice
 - * **Important Note- involve your professional liability carrier early in your planning process**
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Attorney Licensure/Registration

- ▶ Active Lawyer
- ▶ Inactive Lawyer Registration
 - ▶ Affidavit of Inactivity
- ▶ Retired Lawyer Registration
 - ▶ Affidavit of Retirement
- ▶ Rule 6.2 Pro Bono Publico License



Transition Plan-Sole Owner of a Law Firm

- ▶ If your chosen option is to close down your practice, what issues to you need to address?
 - ▶ 1. Open Files
 - ▶ What is the current status of these files and what type of fee agreement is involved
 - ▶ Timeline for finishing the matter and if any require special handling
 - ▶ 2. Closed files-File Storage
 - ▶ 3. Electronic files –File Storage



And finally...

- ▶ 4. Long term and short-term obligations
 - ▶ Terms of office lease and any vendor contract
 - ▶ Equipment leases
 - ▶ Utilities
- ▶ 5. Notice to clients
- ▶ 6. Closing out trust accounts- *Remember your Fiduciary Duty in Wrapping up Client trust accounts*
- ▶ 7. Professional liability coverage-"tail" coverage

Your Law Practice Does Have a Financial Value



How to Determine the value of
a law practice-2 alternatives

- ▶ 1. What would a willing and informed buyer and seller be willing to pay and accept for this law practice?
- ▶ 2. Impartial business valuation-fair value for both buyer and seller

Questions for Retiring Attorney

Imagine it's Friday afternoon. You've been running a successful law practice but are now ready to ride off into the sunset at the end of that day....



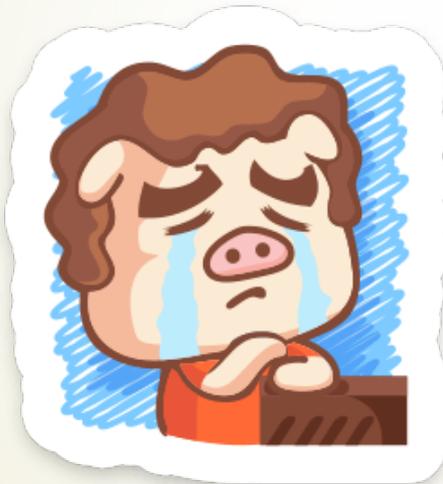
- ▶ 1. When Monday morning rolls around, will your existing clients or potential new clients call you and be willing to work with your replacement?
- ▶ If the answer is "no" your practice is probably worth little to nothing at all.

If the answer is “yes”
ask two more questions:

- ▶ 1. What has been your gross revenues annually for the past few years?
- ▶ 2. If you retire and sell your practice, what should you realistically expect for gross revenues from your old clients/files over the next four years?
- ▶ **Value should be in the 15%-25% of the expected revenues over the next four (4) years**



Why Some Attorneys Don't Develop Transition Plans



- ▶ Denial- Not facing reality
- ▶ "When we deny the story, it defines us. When we own the story, we can write a brave new ending."
Jeanne Bernick of K Coe Isom
- ▶ Fear of one's mortality-who enjoys thinking about one's death?
- ▶ Procrastination-waiting too long to develop and implement a transition plan
- ▶ "Die with my boots on" mentality ("My exit strategy is to die at my desk")

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- ▶ Loss of Identity- is your identity totally wrapped up in being an attorney? Will people care and respect me anymore?
 - ▶ Belief of indispensability –who can possibly run the firm better than me? How could my clients get along without me?
 - ▶ Apprehension of retirement-will travel, golf and sampling new restaurants be enough?
 - ▶ Natural aversion to planning-don't things always seem to work out on their own? (*"Old Lawyers never die-they just lose their appeal"*)





Resources

- ▶ ABA Formal Opinion 468-Facilitating the Sale of a Law Practice-
https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_opinion_468.authcheckdam.pdf
- ▶ Passing the Torch Without Getting Burned-A Guide to Law Firm Retirement and Succession Planning, Peter A. Giuliani (ABA 2013)
- ▶ Judges Lawyers Assistance Program (JLAP)-<https://www.in.gov/courts/jlaphelps/>
- ▶ Surrogate Attorney's Rule Manual-Indiana State Bar Association
- ▶ Admission & Discipline Rule 23, Section 27- The Attorney Surrogate Rule
- ▶ "An Ethical Exit from the Practice of Law" Lundberg/Schroeder

Res Gestae-November 2017

"Closing a Solo Practice: An Exit To-Do List" Law Practice Management Archive –Law Practice Management Magazine, Volume 37 Number 3, May June 2011-
<http://www.slw.ca/2011/06/13/build-your-firms-succession-plan-with-the-help-of-law-practice-magazine/>

The Lawyer's Guide to Succession Planning, John Olmstead (ABA 2016)