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Law Firm Succession Planning

BY MARC A. LANDIS AND MARK M. ELLIOTT


SHUTTERSTOCK

"He acts like I'm … his successor—but he thinks he's gonna live forever …" - Michael Corleone, "The Godfather, Part II"

Law firm succession planning is neither a comfortable nor an enjoyable topic—but it has never been more necessary. We are required to confront challenging issues: aging, relinquishing our professional identity, an uncertain future, and even mortality. This is an existential issue for some firms and of importance to virtually all. With the continuing retirement of the baby boomers, our profession is undergoing an unprecedented generational transition. Law firms that wish to continue to succeed cannot afford to avoid the topic.

Over 65 percent of the equity partners in the United States are in their late fifties or older.[1] While many senior partners look forward to a decade or more of performing high-quality professional work, the fact of the matter is that none of us will practice law forever. Much rides on a law firm's willingness to timely address this inevitability. Indeed, for many firms the stakes could not be much higher. No less than retaining key clients, keeping talented lawyers and even the survival of a firm depend on effective succession planning.

Firm Leadership

Let's start at the top. Whether it is the founding partner or her successor decades hence, the fact of the matter is that many firms identify with or are highly dependent upon an effective firm leader. The managing partner often sets the tone for the firm's culture, articulates the firm's vision and is the person most intimately acquainted with the firm's practices and finances. Much like a corporate CEO, such a person is not easily replaced.

Several years before a managing partner plans to retire from the post, she and the firm's executive committee must begin to identify the persons

MARC A. LANDIS *is the managing partner of Phillips Nizer.* MARK M. ELLIOTT *is the chair of the firm's litigation department.* JULIAN D. PERLMAN, *a partner at the firm, assisted in the preparation of this article.*

likely to be best suited to succeed her. That requires identifying those with the qualities necessary to herd a most difficult breed of cat: Highly-intelligent, strong-willed professionals trained to scrutinize, question and advocate. Aside from the obvious, good judgment, unflappability and the like, the ability to maintain a constant focus on the firm's future is a key qualification for the job. An effective firm leader should be open to and respect contrary opinions. A bit of diplomatic grace will come in handy as well.

When future leaders are identified, they should be groomed. Among other things, that means including the next-generation leaders in key firm decisions, placing them on meaningful firm committees, particularly the firm's executive committee, and most of all being as transparent about the firm's goals and challenges as reasonably possible.

With the many day-to-day responsibilities attendant to running a law firm, and in most cases servicing clients as well, it is easy for succession planning to fall low on the list of a managing partner's priorities or to not make the list at all. In that case, other firm leaders should insist that the managing partner make the time to consider succession planning with respect to the firm's top post, other firm leadership positions and clients. It may be advisable to establish a firm committee on succession planning. This may have the effect of depersonalizing this difficult topic, while also institutionalizing the firm's commitment to getting it right.

When a new managing partner is selected, the outgoing managing partner should continue to play a key role, prior to and after the new managing partner takes the reins. To help accomplish this, the selection and announcement of a successor should occur several months before she assumes the post. The interim period will permit the outgoing managing partner the opportunity to further prepare her successor for the job. While there can be only one managing partner at a time, the outgoing manager should include the incoming manager in key meetings and decisions and ensure that her successor is fully apprised of all material firm affairs and challenges.

> Several years before a managing partner plans to retire from the post, she and the firm's executive committee must begin to **identify the persons likely to be best suited to succeed her.**

At Phillips Nizer, when entering into our first managing partner transition in over 20 years, we appointed the outgoing managing partner to a newly-created role of administrative partner, allowing continued support for the new managing partner for two years. If an outgoing managing partner intends to retire, this should be timed to occur at least a year after she relinquishes the top post. The former managing partner's continued presence at the firm will be a stabilizing influence, and she will be an important resource for the new leader.

Practice Area Leadership

Of course, the managing partner is not the only leadership post where succession planning is important. Such planning also is necessary for practice area leaders.

Practice area leaders provide the focus and direction for their departments. A department leader often is the point person for important client relationships, the public face of the firm's expertise, and responsible for marketing, training, mentoring, assigning and attorney development.

Firm leadership, in consultation with a practice group leader preparing to step aside, should seek out potential successors with attributes similar to those needed for a managing partner. In addition, would-be successors should be accomplished in their area of practice and be recognized as such both within and outside the firm. Practice area leaders also should have a demonstrated aptitude in business development and mentoring. Much like the transition of firm leaders, practice area leadership succession should be timed so that the incoming and outgoing leaders have ample time to transition the role.

Transitioning Clients

Ensuring that as many clients as possible remain with the firm after a client relationship partner retires may be the most challenging transition issue.

After all, the relationship partner has spent years cultivating and servicing her key clients—perhaps while jealously guarding the client relationship from competitors outside the firm and even from colleagues. Not every partner will immediately and enthusiastically embrace the concept of slowly letting go of complete control of that relationship.

The relationship partner's commitment to client transition planning will in part be a function of that partner's commitment to her professional legacy. It is a point of pride that a key client remains with a firm even after one's retirement, due in no small part to one's careful planning. And it is likewise important to many partners that the firm continues to thrive after they retire. In any event, firms need to make clear to their partners that this is a priority issue.

Implementing successful client transitions begins several years in advance. It starts with identifying the attorneys best able to maintain the client relationship. That assessment will examine a combination of factors, such as practice area expertise and reputation, a track record with the client, and chemistry between the would-be successor and the key client contacts.

Effectively implementing the transition entails giving would-be successors the opportunity to earn the client's trust. This means including the successor in important strategic calls and meetings and giving them a visible role in matters. The relationship partner also should let the client know when a successful outcome is due at least in part to the successor's efforts. The successor should also be included in social gatherings with the client to cement the client's comfort level with her.

Last but not least, the relationship partner and her successor need to work closely with the client to determine what the client will need in the future. Lawyers are often tempted to close their eyes and expect the status quo to continue. At Phillips Nizer, we have found that including our successors in these discussions—especially in our signature practices—has been essential to our representing clients through decades as their own businesses evolve. In one case, we have represented the client for over 55 years, through multiple successful transitions on both sides of the relationship.

Of course, to stay successful—indeed to stay in business—a firm needs to regularly bring in new clients. Successful rainmakers therefore should provide guidance and support for their younger colleagues' marketing efforts. Rainmakers, especially those nearing retirement age, should introduce their colleagues to the referral sources and organizations that have traditionally led to business generation.

Implementation

After succession planning is planned for, the hard work has just begun. Implementation will require difficult conversations. Key partners who are anticipating retirement must be required to implement a succession plan. Firms should consider ways to incentivize cooperation with succession planning, such as rewarding such efforts during the annual compensation exercise or making it a condition of exit or post-partnership payments.

Conclusion

The current tectonic generational shift makes effective succession planning a must for many firms. The time to tackle the challenge is now.

1. John W. Olmstead, The Lawyer's Guide to Succession Planning, 3 (American Bar Assoc. Pub., 2016) (citing American Bar Foundation's "Lawyer Statistical Report").