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Retaining Maximum Value During Phase-Downs

By Alan R. Olson

Across the United States, the legal profession is experiencing its most profound demographic change since the "baby boomer" generation entered the profession in the 1970s and '80s. Significant impacts are or soon will be felt—often acutely—in small, mid-sized and large law firms, in multi-office, multi-practice and specialty law firms, around law firm executive committee tables and across practice groups.

Based on industry data and experience, Altman Weil estimates that at least one-third of law firm lawyers are baby boomers, ranging from those who are "full time and full-go" to semi-retired and every phase in between.

In Altman Weil's *2015 Law Firms in Transition Survey* (including responses from 320 US law firms with 50 or more lawyers), nearly one-half of law firm leaders estimate that partners age 60 and above control one-third or more of their firm's revenue, including over 10 percent who estimate partners age 60 or older control more than 50 percent of revenue.

LAW FIRM RESPONSE

How individual law firms and their leadership anticipate and respond to this inevitable turnover of a significant percentage of their partnership will determine their strength and competitiveness going forward. A surprising number of law firms are poised to lose key practitioners; many law firms are encountering, or are likely to encounter, strategic gaps in practices, major specialties, business development capabilities and a host of other important competitive attributes.

Thus far, law firms' responses to the succession planning tsunami have been mixed. In the *2015 Law Firm in Transitions Survey*, only 31.3 percent of respondents report having a formal succession planning process for lawyers approaching retirement, while 39.7 percent report having an informal or ad hoc process. In Altman Weil's extensive experience in consulting with law firms on their succession plans, informal/ad hoc plans often indicate that the firm and individuals are not sure how and when to proceed, are uncomfortable discussing the topic—and, when they finally act, find their efforts are "too little, too late" to effectively execute the transition process.

GETTING STARTED

As simple as it sounds, Altman Weil recommends that law firms get started. Ideally, we recommend commencing planning five years in advance of an anticipated—or a demographically likely—phase-down or retirement. If you already have less than five years, it can't be emphasized enough to get started now.

In Altman Weil's experience, one simple, effective and informative approach is to analyze the law firm's demographics. This can be done easily, and can be used to begin the succession planning discussion. For example, consider a small law firm or good-sized practice group that has 44 lawyers, including 14 lawyers age 61 and above, ten of whom are partners.

In many firms, these senior lawyers will be responsible for substantial—or very substantial—client relationships and revenues. Once the senior cohorts have been identified, estimate their revenue by applying annual collections by billing or responsible attorney, or by originating attorney, and add that information to the demographic chart. This should give you a specific picture of the magnitude of the problem in your law firm.

ESTABLISH A PROGRAM

In most firms, Altman Weil recommends establishing a formal, firm-wide succession program, rather than an informal or ad hoc approach, as a means to retain and achieve maximum value during transitions. In our experience, many informal/ad hoc programs lack specificity, rigor or commitment. Moreover, informal programs can be ruled by exception, involving "reinventing the wheel" for each senior lawyer and circumstance. A formal program will constitute the firm's basic architecture, and individual planning can be undertaken within this structure.

Establishing goals for the succession plan or succession program can help de-mystify the process and emphasize a constructive, positive foundation. As a starting point, seek to make the plan and process a win-win-win. Clients get uninterrupted representation from a trusted team; the firm avoids disruption and potential loss of business; and the retiring partner has a clear plan that appropriately rewards his or her role in a successful transition.

Will achieving a win-win-win always be a slam-dunk? Not likely. However the likelihood of achieving an optimal outcome is greatly enhanced by establishing the goals, developing rational short and long term strategies jointly with each senior lawyer and firm leaders, and with the clients' needs and goals factored in.

By contrast, consider the likelihood of achieving a win-win-win through a wait and see approach, or by optimistically assuming that transitions will work themselves out.

USING TRANSITION ASSETS

All succession strategies and structures should focus on retaining or re-creating maximum value for the firm as a senior lawyer phases down his or her practice. As a starting point, Transition Assets include:

- Substantive legal expertise
- Range/blend of specialties, sub-specialties, industry knowledge
- Client relationships, and relationship-building skills
- Business development skills, experience and contacts
- Firm management and leadership skills and experience
- Practice management and leadership skills and experience
- Profitability and cash flow

Many law firms and individuals understandably focus on compensation during succession. Fair and equitable compensation that drives good outcomes is certainly a critical aspect of most if not all transitions. Nevertheless, it is even more critical to consider the preservation of transition assets first. Goals, plans and implementation to preserve, reinforce and re-create these transition assets will directly determine the overall size of the pie from which compensation and re-investment in the firm and the clients will be drawn.

IN CONCLUSION

The tsunami of baby boomer transitions is upon us, and its effects are being felt, sometimes severely, across U.S. law firms. Many firms still need to get started, or to upgrade their response with more formal, strategic succession plans or programs. Establishing goals, strategies and the commitment to follow through are critical, and greatly enhance the likelihood of achieving a win-win-win for clients, the firm and the individual lawyers. A focus on transition assets as a foundation for planning and implementation will maximize the value that can be retained, reinforced or recreated through even the most challenging transitions.

Alan Olson is a principal with Altman Weil, Inc., serving clients throughout the United States and Canada from the firm's Midwest office in Milwaukee, Wisconsin. For over twenty-five years, he has advised law firms on strategic planning, practice management and compensation systems. He is a thought-leader in the emerging discipline of succession planning for law firms, including leadership and management transitions, practice transitions, compensation systems and key client retention strategies. Contact him at arolson@altmanweil.com.