# Why are Founders Often Major Challenges in Succession Planning?

**By Alan R. Olson**



The current U.S. legal landscape is decorated with hundreds of first-generation law firms, some still small and some that have grown to well over 100 lawyers. These law firms are formed *de novo*, or break away from a predecessor firm. The predecessor firms are generally larger than the spin-offs and, more often than not, survive this schism or even several schisms over time.

As Baby Boomer founders hit prime retirement age, we are watching in real time the consequences of the 'founder culture' on the issue of leadership succession.

**Axioms for Founder Generation Firms**

1. The attributes that were of seminal importance in the founders of many successful U.S. law firms in the last 40-plus years are precisely the same attributes that make it less likely that these same law firm founders will *go quietly into this good night*.
2. Law firm founders have *something extra* attached to their status or partnership, even in firms with technically equal partnership rights and responsibilities.
3. When a founders group is powerful in performance, it is a harder act to follow.
4. When a founders group are all approximately the same age the active founders have to focus more, and earlier, on opening up leadership and management positions—otherwise challenges will be greater.
5. When a founders group actively retains or reinforces its group identity, it can amount to a "firm within a firm," or a special status group
6. When a founders group holds onto key management and leadership positions, or rotates them within the group, it will add to transition challenges, and at some point, even make successful transitions unlikely.
7. By definition a founded law firm in its first generation has never transitioned before and has no blueprint for action.

Law firm founders are generally entrepreneurs and calculated risk-takers. Many in the Boomer generation exhibited impatience, and this impatience—augmented by legal skills, talent and confidence, and by increasingly scientific marketing and sales techniques, resulted in the rapid rise of relatively junior partners who built client loyalty and books of business. This also resulted in the transition of significant books of business from more senior lawyers who, having reached maturity in more traditional times and hierarchies, delegated work and even their client relationships relatively freely, out of a sense of firm and team, with less protectionism, and/or perhaps some passivity.

Nowhere was the pattern of impatience more visible than in the rapid changes to U.S. law firm compensation systems. Next-generation or "junior" partners disrupted long-standing seniority-based lock-step compensation systems and their siblings (e.g.: "*Let's divide half the profits equally among us equity, senior or fully vested partners!*"). In short, Baby Boomers who by no means invented the 2,000 billable hour year but embraced it, were not enamored with the idea of waiting 10 or 15 years to reach parity, especially if even small proportions of the fully vested/senior partners were working fewer hours (e.g.: 1,200 or 1,500 billable hours annually). Many compensation systems were adapted in the '80s and '90s as law firms sought to modify their existing partner compensation systems with goals of decreasing the weighted value of seniority in compensation decisions, and increasing compensation distribution to hold onto advancing entrepreneurial "stars," and especially to keep their firms together and viable.

But sometimes, law firms under pressure did not stay together, even with compensation system modifications, and the young advancing entrepreneurial stars started their own firms, with new clients and/or clients who went with them.

At the same time, the pace of change in the U.S. legal landscape had been increasing, and rapidly. The relative demand for legal work fueled law firm growth—and in many instances, rapid growth. Specialization, accompanied by more aggressive and knowledgeable marketing strategies, were expanding the niches and combinations of industry services and market segments, enabling broader, more diversified success for smaller law firms and larger firm practice groups. There appeared to be enough legal work in general, specialties and industry/market niches to go around, at least for larger, well-managed, more traditional law firms—and for sharp, entrepreneurial lawyers in smaller firms.

For successful start-ups of the '80s, '90s and the 20-oughts, there were visible patterns in their origins and in their originators, whether begun more-or-less from scratch or from splitting off. Founders tended to be talented lawyers, rainmakers, and risk-takers – all qualities that served them well through their careers, but which can be stumbling blocks to effective transitions.

Another frequently exhibited attribute of Boomer generation entrepreneurial start-ups was often created by the founding generation during the first 5, 10 or 20 years of their law firm's existence. Founders were prone to hire the next generation of lawyers for their legal skills, <u>not</u> their perceived rainmaking abilities. Additionally, founders might tell the new lawyers that they did not need to develop new business, but rather focus on the business already on their plates (hence the origin of the term "silver platter syndrome").

Of course, it is significant that a first-generation law firm is less likely to have a strong entrepreneurial second or "next-up generation," because the second generation was hired to do the work, not to bring in the work. In the last two decades, the validity and applicability of this premise have declined markedly, forcing firms, and many lawyers, to adapt, become entrepreneurial or otherwise successful in creating business or risk poor performance.

Founders are often revered for their skills, drive, spirit, and their position—they originally *formed* the firm. Moreover, many firm cultures and traditions underscore the status of founders—the story of the firm and the history *begin with them*. In turn, the story/history underscores founders' special positions. It is true that founders can lose or destroy their figurative capital by unpopular actions (or inaction). But in most cases, as strong performance continues and reinforces the original circumstances of the founding, many or most founders continue to have additional status, respect and reverence attached.

This makes discussions or movement to introduce transitions of founders more difficult. Historians have noted that George Washington could have continued as the first President beyond two terms, but he chose to limit himself to two terms. While this is a singular example, it is still feasible to picture a small portion of extra ethos emanating from some law firm founders, in some law firms.

When a founders group has continued intact as a group, the dynamic can be stronger, especially if the founders choose to feed and nourish their status as a "special group." Of course, they are special, in a sense, and the difference is a matter of degree. Do the same—or different—rules and policies and procedures apply to the founders that are held for other partners?

In a first-generation law firm, there is no blueprint for transitions; no traditions from the firm that can be drawn upon. So, for example, original founders often remain in leadership roles and/or in full partner roles, longer than is typical and longer than subsequent seniors.

A conspiracy of polite silence regarding transitions, both by the founders and the next-up generations in a law firm, are much more likely when it is the firm's first encounter with transitions and with the likely surrounding issues.

**Conclusions**

Clearly time marches on, and no matter how important a founding group was and is important to the success of a law firm, transitions need to be planned, positioned and implemented effectively. In fact, because many founder transitions are *more challenging*, more attention should be paid, and at a minimum, should not be delayed. Altman Weil typically recommends looking at a five-year window for important law firm transitions, including client transitions, transitions of key firm management, leadership and practice management roles, and the like.

It can be strongly stated that erring on the side of *more time*, rather than less, is important to get founder transitions *right*, and be successful. This does not have to mean a more abrupt, or earlier, transition—on the contrary, it is more likely to mean a longer transition—but with commitments to get started, to stop putting it off, and to establish meaningful steps and progress.

Finally, if one or more of the 'axioms' described above are present, it is even more important for leadership to get going, and to do so meaningfully. In general, the process will be most successful if the founders, or leadership among the founders, raise the need for transition or succession planning, and indicate a willingness to begin discussing the potential short and longer-term topics and issues.

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