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MPF FEATURED ARTICLE

PLANNING FOR THE FUTURE

WHEN IT COMES TO SUCCESSION PLANNING, LAW FIRMS HAVE PLENTY OF ROOM FOR IMPROVEMENT

by

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LEGAL INDUSTRY/BUSINESS MANAGEMENT

Planning for the Future

When it comes to succession planning, law firms have plenty of room for improvement

It's a sad fact that 70 percent of first generation firms do not survive their founding partners. It's unfortunate to see once great law firms fall apart. Yet, we see it all around us. The reasons vary, but most often it's due to a lack of a thoughtful, deliberate succession plan.

JOHN REMSEN JR. & JOHN STERLING

Succession planning and management involves actively preparing for the transition of leadership — be it the transition of managing partners and other lawyers holding leadership positions; succession of client relationships from rainmakers and client relationship managers; or senior administrative positions.

Succession planning generally serves two purposes. First, it enables a law firm to prepare for orderly transitions of key positions and major client relationships. Second, it prepares the firm for the untimely and unplanned loss of a critical leader as the result of unpredictable events, such as lateral poaching by search consultants, health issues or sudden death.

In October and November 2014, The Managing Partner Forum, in affiliation with Sterling Strategies and TheRemsenGroup, conducted an online survey about succession planning in which 85 managing partners — mostly from smaller and mid-size law firms — participated. The results serve as the foundation for much of this article on a most important, yet often neglected, topic.

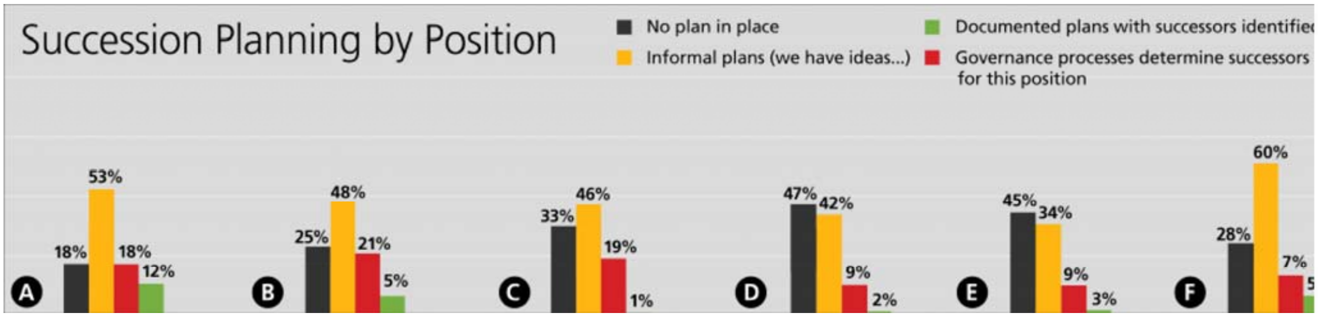
LONG RANGE SUCCESSION PLANS

Longer range succession plans are helpful in managing the transition of a number of positions in a law firm. Most obviously, firms ought to have plans in place for the succession of leading lawyers, such as managing partners and chairs of executive/management committees. In addition, firms should have succession plans for C-level administrative leaders (at a minimum).

Unfortunately, our survey found that most law firms are doing very little effective succession planning. For example, only five percent of firms we surveyed said they have a documented succession plan in place for their top five client relationship managers. However, 60 percent said they have informal plans or ideas in the works for these employees.

In addition to planning for the transition of leadership roles and positions, firms should also plan for the effective transition of other important contributions senior lawyers bring to their law firms. That includes transition of:

- The knowledge and expertise of senior lawyers via training, mentoring and knowledge management systems
- Client relationships cultivated and managed by senior lawyers
- Involvement in broader networks — especially leadership roles in community/civic organizations, prominent philanthropic causes, professional associations and industry groups



A: Managing partner (or his/her equivalent)

B: Chair of executive/management committee (or his/her equivalent)

C: Practice group leaders

D: Chief operating officer/firm administrator (or his/her equivalent)

E. Other director level administrators

F. Top five business originators/client relationship managers

EMERGENCY PLANS

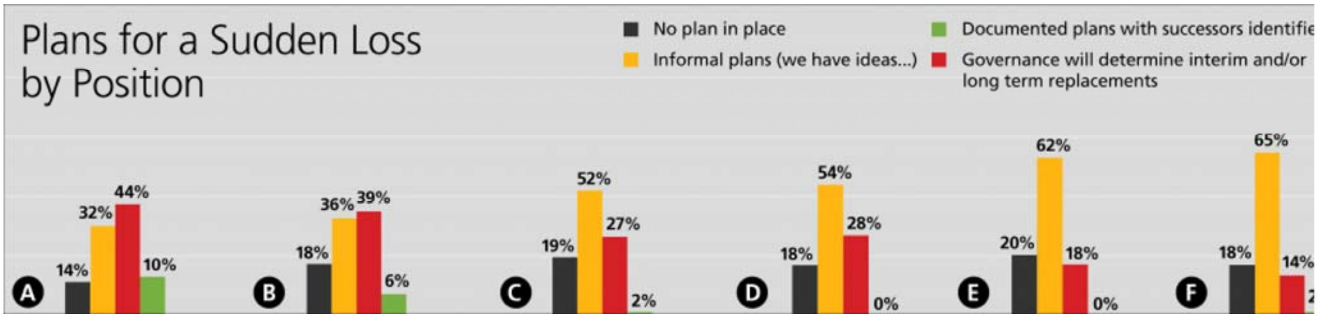
Generally speaking, longer range succession planning and transition should be managed over a period of years, not months. However, that is not always possible. At Wyatt, Tarrant & Combs, a 200-lawyer firm based in Louisville, Kentucky with six office locations, their managing partner stepped down suddenly in the mid-2000s after being seriously injured in an auto accident. So, when Managing Partner William Hollander was entering his final year of his second term in 2013, he committed himself to making an early decision regarding whether or not to serve another three-year term. When he made a clear decision in May to pass the torch, the firm had seven months to seek a successor and manage the transition. Current Managing Partner Franklin Jelsma noted the transition was "orderly and cordial… We had the transition lined up by the end of summer."

With all that said, having a clear plan and process in place for succession management also prepares firms for the sudden, unexpected loss of important leaders. At a minimum, firms ought to have an idea of who would replace their managing partner and the leaders of their most important practice groups. However, that does not appear to be how they practice. Only 10 percent of firms have documented plans in place in the event their managing partner suddenly departs the firm. And the numbers are even lower for replacing other leading positions in the event of an emergency departure; in fact, none of the firms we interviewed said they had a documented plan in place should their chief operating officer or other director-level administrators suddenly depart the firm.

These survey results make clear that firms are not at all well prepared for the sudden loss of important people in their organizations. Overwhelmingly, firms will simply muddle through if they unexpectedly lose key people. There is small solace in having a governance system that provides a mechanism for electing a new chair and/or managing partner – the change is still sudden and disruptive.

BEST PRACTICES FOR SUCCESSION PLANNING AND MANAGEMENT

The point of planning now and not later is underscored by Dr. Larry Richard, the world's leading psychologist on the lawyer personality. "People naturally start to slow down when retirement is in sight. Productivity suffers. Chronic underperformance eventually sets in," he says. "Over time, firm profitability declines and young up-and-comers start to leave. A 'psychological energy' is established and starts to infect the firm's culture." Neglecting the issue of succession, he says, can be detrimental to the firm. So where can we start?



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Managing partners and senior staff

A number of practices can help with planning for the succession of managing partners and other senior leaders. Best practices include:

- Developing management and leadership capabilities via a series of less demanding roles, such as committee chair, practice group leader or executive committee membership
- Sending prospective leaders to executive leadership programs at leading business schools
- Naming a deputy managing partner or a managing partner-elect to allow for a year or more of active transition
- Leveraging professional development resources available through the ABA's Law Practice Division
- Involving prospective future firm leaders in peer groups or international networks, such as Meritas, ALFA (American Law Firm Association) International, Lex Mundi or TAGLaw

Generally speaking, law firms are not taking advantage of these resources to manage leadership succession deliberately. However, according to the following chart, firms do appear to make good use of executive or management committees to provide continuity — as well as using them as a source for the next managing partner.

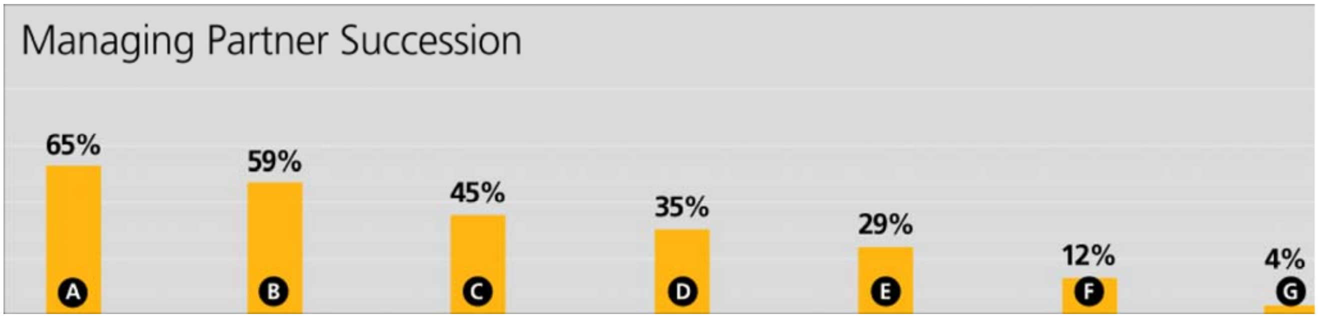
At Lewis Wagner, a 40-lawyer firm based in Indianapolis, Indiana, the partners elect a deputy managing partner who automatically steps into the role after serving as chair of the firm's executive committee for three years. "The committee has a clear mission, which is to monitor and advance the firm's strategic plan," says John Trimble, the firm's current Managing Partner. "Importantly, the future managing partner receives invaluable training and experience in an important leadership role before assuming the managing partner role." Trimble also chairs Defense Research Institute's Law Practice Management Committee.

Administrative Roles

Most firms — almost 75 percent of those surveyed — said they do almost no planning for the succession of senior administrative roles. Best practices for those positions generally involve traditional human resource-based succession planning approaches. That includes knowing the candidates for promotion among C-level and director-level administrative leaders. Pragmatically that involves two related activities:

- First, evaluations of mid- and senior-level administrators should include an assessment of whether individuals have the potential to be promoted one or more levels. That evaluation should also include an identification of the training and professional development necessary for the individual to make that transition to a more senior role.

- Second, using those evaluations as a resource, firms should create a depth chart for their senior administrative positions, and understand who can step in on an interim basis and/or permanently.



A. We rely on our executive/management committee to ensure continuity.

B. We look to our executive/management committee as a pool of talent and knowledge for succession.

C. We use practice group leader and/or committee chair roles to groom future leaders.

D. Our governance process/partnership agreement spells out how successors are selected/elected.

E. We send potential future leaders to conferences and other leadership training forums.

F. We have "deputy" positions for key jobs (e.g., Deputy Managing Partner).

G. We have developed formal succession plans and "depth charts" for key positions.

TRANSITIONING CLIENT RELATIONSHIPS

In addition to planning for succession of key leadership roles, firms need to plan for and manage the succession of significant client relationships. Frankly, firms should always be working to broaden and deepen major client relationships.

Clients who work with multiple partners or multiple practices are much more likely to be retained year-over-year. So, it is always in the best interests of the firm to get multiple people involved in major client relationships.

As a partner approaches retirement (a five-year horizon is not too long and in some cases may be too short to start planning), more active steps should be taken to transition key relationships. That can and should be done in a way that protects the senior attorney’s status and compensation as relationships are transitioned to younger partners. Very few firms — less than 25 percent in the Managing Partner Forum survey — have mandatory retirement policies, so managing this process requires firms to have the discipline and courage to broach the topic of retirement as partners approach age 60. Many partners may plan to work well into their 60’s or even their 70’s, but that does not obviate the need to have the conversation and begin planning.

Some quotes from surveyed managing partners regarding planning for retirements help to illuminate the points above:

- *We have a senior attorney policy that requires each attorney aged 60 and older to file with the Management Committee each year a senior plan. The senior plan is to state what the attorney's plans for work are for the next five years and whether that plan includes scaling back and/or retirement. If the plan includes retirement, the plan is also to include a proposal for transitioning his/her clients to other attorneys in the firm.*

- *(We hold) annual meetings starting well before retirement and allow plans to develop both on the firm's goals and individual's goals. Follow through on reviewing how the plan is progressing during the year is required. Teaming in our approach to clients and matters is very important to smooth transitions.*

- *One thing we do is that all attorneys 65 or older must meet with a portion of our Executive Committee on an annual basis to review their clients and what efforts have and will take place to ensure a smooth transition. A report is then given to all shareholders at our regular monthly meeting.*

Furthermore, firms may want to take the following steps to actively manage the transition of important client relationships:

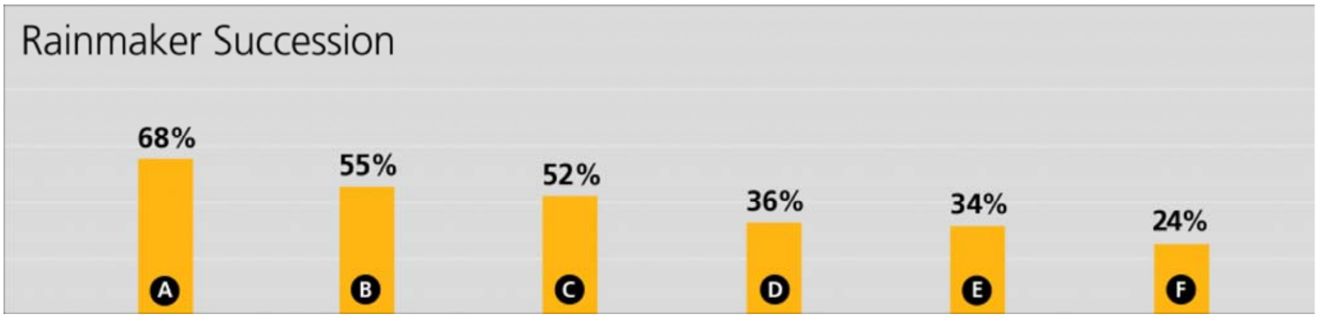
- Give younger lawyers direct access to clients as much as possible so the clients build trust and confidence in the younger lawyers. Clients hire lawyers, not law firms and, if the only lawyer they know at the firm isn't there anymore, they go shopping.

- Establish client teams consisting of both senior and junior lawyers. Through these teams, information is shared and activities are coordinated.

- Establish industry practice groups. Here, again, the firm should be promoting a team approach to marketing and business development with senior lawyers working hand-in-hand with junior lawyers.

- Make sure your firm's compensation system rewards sharing and teamwork, not hoarding and control. Senior lawyers should be rewarded for successful transition.

John Trimble of Lewis Wagner says his firm has a policy of sharing clients with multiple lawyers. "We refuse to track client origination credit," Trimble says. "Rather, we track origination at the matter level. It's up to the clients to call whoever they want to handle their matters. It's a system that's worked well for us over the years."



A. We actively work to broaden client relationships to multiple partners and multiple practice areas are serving key clients.

B. We maintain back-ups internally on major matters and/or for large client

TRANSITIONING EXPERTISE

Finally, there is a need to manage succession around the knowledge, expertise and networks partners contribute to the firm. That succession should be integrated into the broader discussion of eventual retirement and it should consider the following:

relationships to ensure someone can pick-up matters in the event of an emergency.

C. We work directly with key clients over multiple years to introduce depth and to plan for future succession.

D. We let things develop naturally and hope for the best.

E. We seek opportunities for secondments or other approaches that embed younger attorneys at key client.

F. We tend to scramble in the final year before a partner retires to transition his/her key relationships.

- **Does the partner have unique, hard to duplicate knowledge or expertise?** If so, is there a protégé in place and is that person growing and developing at a pace sufficient to position the firm to carry-on effectively after the senior partner retires? If not, can that void be filled via lateral hiring? In addition, can/should the firm be adopting knowledge management tools to institutionalize aspects of that partner's expertise?

- **Is the partner a leader in the community?** How does that leadership manifest itself (for example, elected positions, leadership of/involvement in civic organizations, prominence in philanthropic circles, etc.)? Community leadership generally requires a person to have a genuine interest and passion for being actively involved — that passion can and should be tapped from an early age and stage in one's career.

- **Is the partner active in industry and/or professional organizations?** If so, does that involvement directly benefit the firm? Firms should actively work to transition younger partners into associations where the firm knows it wants to remain prominent. Expect that transition to take a number of years.

MOVE FORWARD OR FALL BEHIND

The legal marketplace is evolving rapidly, right before our eyes. As always in the marketplace, there will be winners and there will be losers. We believe – and the evidence backs this up – that law firms which embrace succession planning will be better positioned for success, both today and in the future.

ABOUT THE AUTHORS

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