



MPF FEATURED RESOURCE

SUCCESSION PLANNING: PRACTICAL GUIDANCE TO MAKE IT REALITY IN YOUR FIRM

by

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TheRemsenGroup

September 14, 2018

TheRemsenGroup

404.885.9100 - www.TheRemsenGroup.com

Managing Partners and Law Firm Leaders Conference

Loews Chicago Hotel | Chicago, IL | September 6, 2018

Succession Planning

Practical Guidance to Make It Reality in Your Firm

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BIOGRAPHICAL PROFILE

John Remsen, Jr. - President

John Remsen, Jr. is widely recognized as one of the country's leading authorities on law firm leadership, management, marketing and business development. After serving as in-house marketing director at two major law firms, John formed TheRemsenGroup, a consulting firm that works exclusively with law firms to help them develop and implement long-term strategic objectives to improve cohesiveness, performance and profitability. Since 1997, he has worked with over 375 law firms and thousands of lawyers. Most of his clients are smaller and mid-size commercial law firms, ranging in size from 15 to 200 lawyers.

John is a frequent speaker and author on law firm leadership and marketing topics. He has spoken at national, regional and local conferences of the American Bar Association, Association of Legal Administrators and Legal Marketing Association. He has also been a featured speaker at numerous state and local bar associations, and law firm networks. His articles have appeared in such well-respected publications as *ABA Journal*, *Asian Lawyer*, *Florida Bar News*, *For the Defense*, *Law 360*, *Law Practice Management*, *Law Practice Today*, *Lawyers Weekly*, *Legal Management*, *National Law Review*, *Marketing for Lawyers*, *Marketing the Law Firm*, *Managing Partner*, *New York Law Journal*, *Rainmaker's Review* and many more.

In the late 1990's, John served on the national Board of Directors of the Legal Marketing Association (LMA) and was President of its Southeastern chapter for three years. Under his leadership, the chapter was recognized as LMA's Chapter of the Year in 2001. In addition, he was Executive Editor of *Strategies*, LMA's monthly newsletter. He also served on The Florida Bar's Standing Committee on Advertising for six years and was the only non-lawyer appointed to serve on its 2004 Advertising Task Force.

In 2001, John created The Managing Partner Forum, the nation's richest source of information and the most highly acclaimed conference series for leaders of mid-size law firms. More than 1,150 managing partners and leaders from more than 900 law firms in 43 states have participated in 26 leadership conferences. Each week, he publishes and distributes *The MPF Weekly*, an electronic newsletter distributed to more than 9,000 law firm leaders. For more information, visit ManagingPartnerForum.org.

In 2007, John was appointed to serve as a core member of the ABA's Law Practice Management Section. In 2008, he was appointed to serve on the ABA's Education Board. Since then, he has contributed numerous articles to various ABA publications and has been a featured speaker at ABA meetings and conferences throughout the country.

In 2013, John was elected as a Fellow of the College of Law Practice Management in recognition of his 25 years of demonstrated expertise in law firm leadership and management. Founded in 1994, the College honors those who "inspire excellence and innovation in law practice management." Membership is by invitation only and includes just 200 individuals. In 2016, John was recognized by LawDragon as one of the "Top 100 Consultants and Strategists" to the legal profession. In 2017, John was recognized as one of the world's top "leaders and influencers" in the business of law by the Association of International Law Firm Networks.

A native of West Palm Beach, Florida, John holds an MBA from The University of Virginia (1985) and a Bachelor's degree in Business Administration from the University of Florida (1980). Before enrolling in graduate school, John was Executive Director of The Florida Council of 100, an organization consisting of Florida's top CEOs and business leaders.

December 2017



John C. Trimble

Partner

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Educations

Indiana University Robert H. McKinney School of Law
J.D., 1981
magna cum laude

- *Honors:* Am Jur Award for High Paper in Contracts, 1979; Ben F. Small Fellowship for outstanding achievement, 1980; Phi Delta Phi Legal Fraternity Area IV Graduate of the Year (Indiana, Ohio, Illinois, Michigan), 1981; Faculty Award - Outstanding Graduate of the Year, 1981; Executive Director, Indiana Law Review, Vol. 14, 1981

The Citadel, Charleston, South Carolina
, 1973-1975

Hanover College, Hanover, Indiana
B.A., 1977

- *Honors:* John Finley Crowe Citation, Hanover College (outstanding male graduate), 1977

ICLEF Civil Mediation Training (40 Hours)
, 1989

Bar Admissions

State of Indiana, 1981

U.S. District Court, Southern District of Indiana, 1981

U.S. District Court, Northern District of Indiana, 1990

U.S. Court of Appeals, Seventh Circuit, 1991

John maintains a practice that is dominated by catastrophic, complex, and class action litigation in the State and Federal Courts. He focuses much of his time on insurance coverage disputes, bad faith defense, lawyer and insurance agent malpractice, business litigation, and catastrophic damages caused by all types of casualty risks, including transportation, construction, product liability, fires, and governmental liability, to name a few. He has also argued numerous appeals in the State and Federal appellate courts as counsel for a party and as amicus counsel for lawyer and trade associations. Through the years, he has been admitted pro hac vice in more than 20 jurisdictions, and is frequently hired by out-of-state firms to serve as local counsel in Indiana.

For more than 25 years, John has earned a reputation as one of Indiana's most sought after mediators. Because of the complexity of his litigation practice, John keeps the mediation to a manageable level, but he is frequently hired by judges and lawyers to mediate some of Indiana's largest and highest profile cases. He is also frequently named as an arbitrator in bodily injury, business dissolution, employment, and commercial disputes.

John has distinguished himself as a bar leader. He has been president of the state defense bar, and is a past Defense Lawyer of the Year honoree. He has also served on the Board of Directors of DRI, the largest national association of defense lawyers. In 2000, DRI named John its outstanding defense bar leader of the year. More recently, John has chaired DRI's national Judicial Task Force to explore and offer recommendations on how DRI can assist in maintaining a fair and impartial judiciary. John also serves as immediate Past President of the Indianapolis Bar Association; Secretary of the Indianapolis Legal Aid Society; and Chair of the Board of Visitors of Indiana University Robert H. McKinney School of Law.

John has been repeatedly listed in state and local polls of attorneys as one of the top lawyers. Since 2004, he has been selected for inclusion in *Indiana Super Lawyers*[®] and ranked number one overall in Indiana from 2011-2017. He was also selected by his peers for inclusion in *The Best Lawyers in America*[®] in the fields of Insurance Law; Mediation; and Personal Injury Litigation - Defendants. He was named Best Lawyers' 2013 Indianapolis Insurance Law - Lawyer of the Year and Best Lawyers' 2015 Indianapolis Personal Injury Litigation - Defendants - Lawyer of the Year.

Practice Areas

- Alternative Dispute Resolution

Honors & Awards

- *Martindale-Hubbell* Peer Rated AV
- *The Best Lawyers in America*[®] in the fields of Insurance Law; Mediation; and Personal Injury Litigation - Defendants, 2010-2018
 - *Best Lawyers* 2016 Indianapolis Insurance Law - Lawyer of the Year
 - *Best Lawyers* 2015 Indianapolis Personal Injury Litigation - Defendants - Lawyer of the Year
 - *Best Lawyers* 2013 Indianapolis Insurance Law - Lawyer of the Year
- *Indiana Super Lawyers*[®], 2004-2017
 - Top 10, *Indiana Super Lawyers*[®], 2009-2017
 - Ranked Number One in Indiana. 2011-2017
- Professionalism Award, Indianapolis Bar Association, 2016
- Presidential Citation, Indiana State Bar Association, 2013
- Distinguished Barrister, *The Indiana Lawyer*, 2009
- Award of Recognition for Legislative Assistance in the area of tort liability law, Insurance Institute of Indiana, 1999
- Exceptional Performance Citation, Defense Research Institute, 1999
- President's Award, Defense Trial Counsel of Indiana, 1999
- Fred H. Sievert Award for National Outstanding Defense Bar Leader of the Year, Defense Research Institute, 1999
- Alumni Achievement Award, Hanover College, 1998
- "Who's Who in Law," *Indianapolis Business Journal*, 1998
- One of Indianapolis' Top Lawyers, *Indianapolis Monthly Magazine*, 1993
- 1991 Indiana Defense Lawyer of the Year, Indiana Defense Lawyers Association, 1992

Professional Associations

- American Bar Association
- Association of Attorney/Mediators
- Defense Research Institute
 - Women In The Law Committee, Promotion & Leadership Vice-Chair Chair, 2015
 - Chair, Law Practice Management Committee, 2013-2015
 - Indiana State Representative, 2001-2003
 - Board of Directors, 2003-06
 - Chair, Judicial Task Force on the Independence of the Judiciary, 2005-2008
 - Chair, State and Local Defense Organization Relationship Committee, 2007-2009
 - Chair, Public Policy Committee, 2010

- Defense Trial Counsel of Indiana
 - Diplomat, 2013
 - Board of Directors, 1993-2000
 - President, 1998-1999
 - Legislative Chairman, 1991-1999
- Federation of Defense and Corporate Counsel, 2009
 - Vice Chair of the Masters in Marketing Committee, 2016 - present
 - Vice Chair of the Law Practice Management Section, 2016 - present
 - State Representative of Indiana as part of the P&O Committee, 2016 - present
 - Vice Chair of the Defense of the Judiciary Committee
- Indiana State Bar Association
 - Chair of the State Legislation Committee 1996
 - Committee on Improvements to the Judicial System, January 2008
- Indianapolis American Inn of Court, 2004 - present
- Indianapolis Bar Association
 - Past President, 2016
 - President, 2015
 - President Elect, 2014
 - Discipline/Grievance Committee D, 1996 - present
 - Litigation Section, 1981-present
 - Board of Managers, 2002-2004
- Indianapolis Bar Foundation
 - Fellow, November, 2001
- Indianapolis Law Club, 1994 - present
- Indianapolis Lawyers Club, 1998 - present
- Indianapolis Legal Aid Society, Inc.
 - Board of Directors 2009 - present
- Indiana Arson and Crime Association, Inc.
- International Association of Defense Counsel, 1994 - present
- Judicial Excellence Political Action Committee (JEPAC), 2007 - present
- Kentucky Defense Counsel
- Seventh Circuit Bar Association
- The National Academy of Distinguished Neutrals, Indiana Chapter, 2014 - present

Presentations

- *Succession Planning: Protecting Your Firm and Your Clients' Legal Interests in Times of Transition*, Federation of Defense & Corporate Counsel, 2017 Winter Meeting, Charleston, SC, March 10, 2017, Panelist.
- *Building Relationships and Rainmaking*, Washington Defense Lawyers Association, Whistler, BC, Canada, July 15, 2016.

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WHAT WE SEE HAPPENING OUT THERE

- Brushing the Subject Aside
- Often Allowing Senior Partners to Overstay
- Not Identifying and Grooming Future Leaders
- Not Involving Young Lawyers in Leadership, Governance
- Many Once Great Law Firms Are Falling Apart
- Others Are Being Acquired by Bigger, Better Run Law Firms



LAW FIRM DEMOGRAPHICS

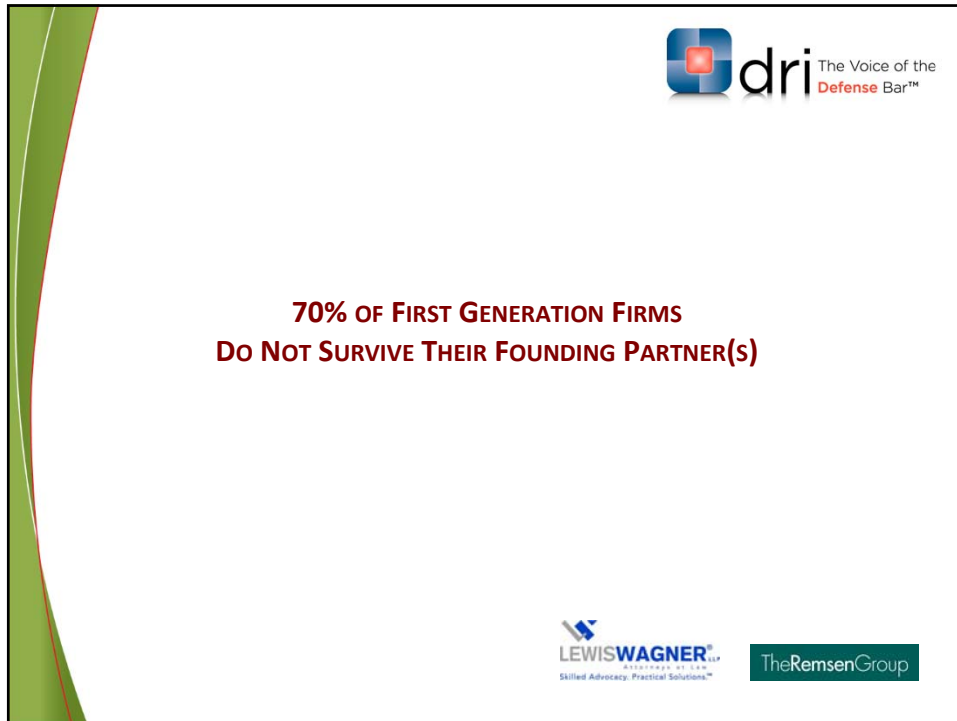
- 30%-40% of lawyers in private practice are beginning to retire, phase down or contemplate phasing down
- Most law firms have actively practicing lawyers in their late 60s and 70s, many of whom are rainmakers
- In 63% of law firms, partners aged 60 or older control at least one-half of firm revenue

Source: American and Canadian Bar Associations



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The slide features a green and red curved graphic on the left side. In the top right corner is the **dri** logo with the tagline "The Voice of the Defense Bar™". The central text reads: **70% OF FIRST GENERATION FIRMS DO NOT SURVIVE THEIR FOUNDING PARTNER(S)**. In the bottom right corner, there are logos for **LEWISWAGNER** (with the tagline "Skiiled Advocacy. Practical Solutions.™") and **TheRemsenGroup**.



The poster has a blue background with a glowing globe and a laptop keyboard. The text reads: **The MPF 2018 Leadership Conference**, **THE LAW FIRM OF THE FUTURE**, **May 2-3, 2018 • Capital City Club • Atlanta, Georgia, USA**. At the bottom is the **Managing Partner Forum** logo with the tagline "ADVANCING THE BUSINESS OF LAW".

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Conference Participants

- 86 managing partners and firm leaders
- Law firms ranging in size from 5-300 lawyers
- From 31 states, DC and Canada
- 35 firm leaders were previous participants

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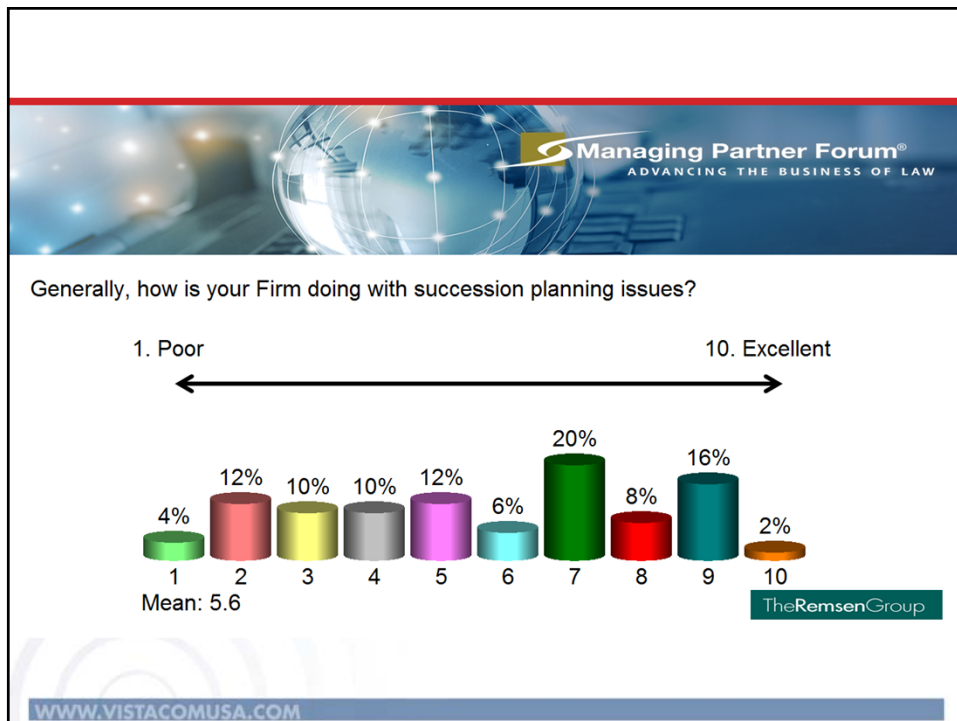
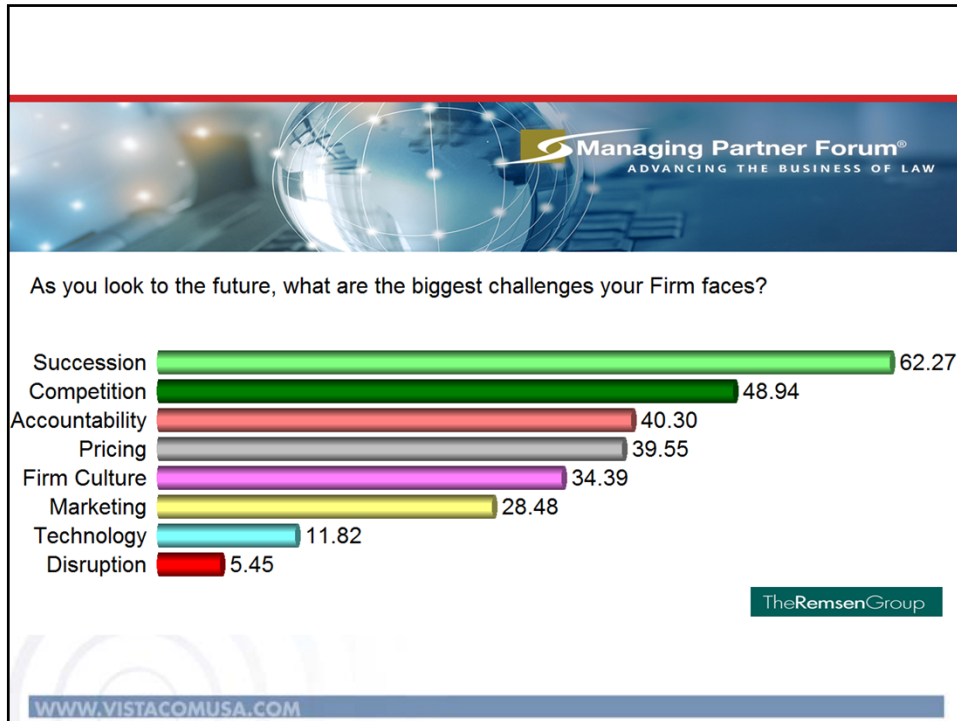
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- #1 Area of Concern
- Senior Partner Transition
- Grooming Future Leaders
- Compensation Considerations

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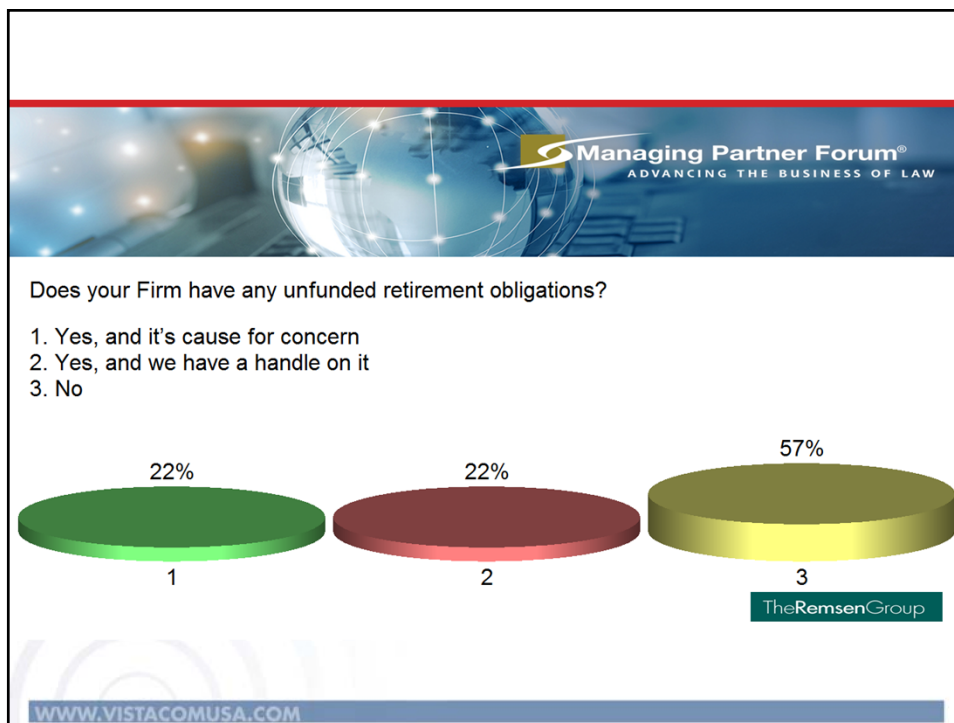
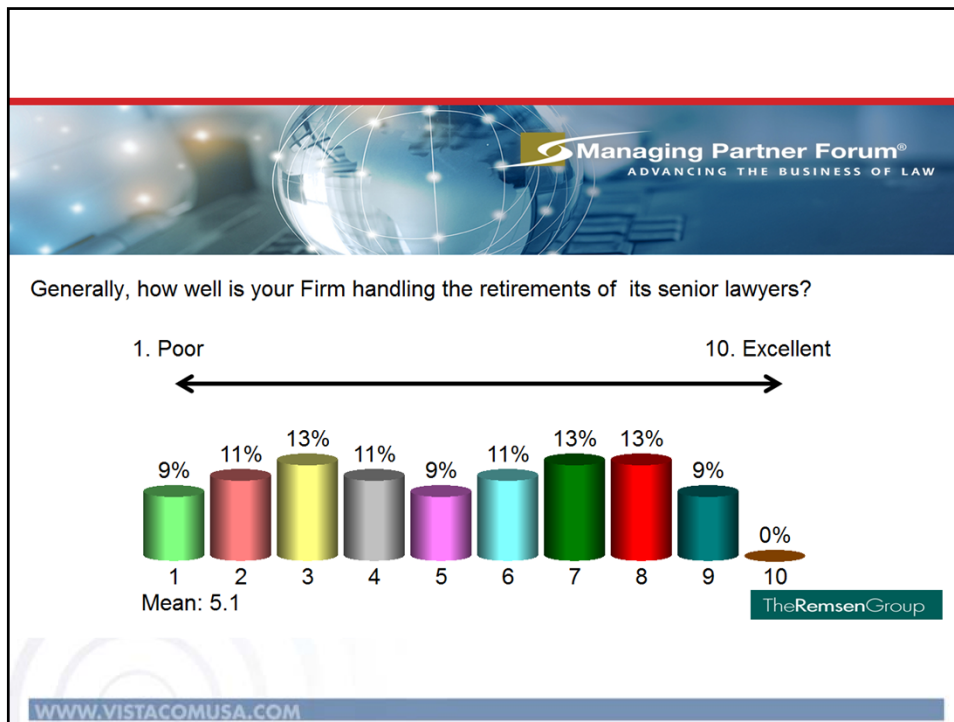
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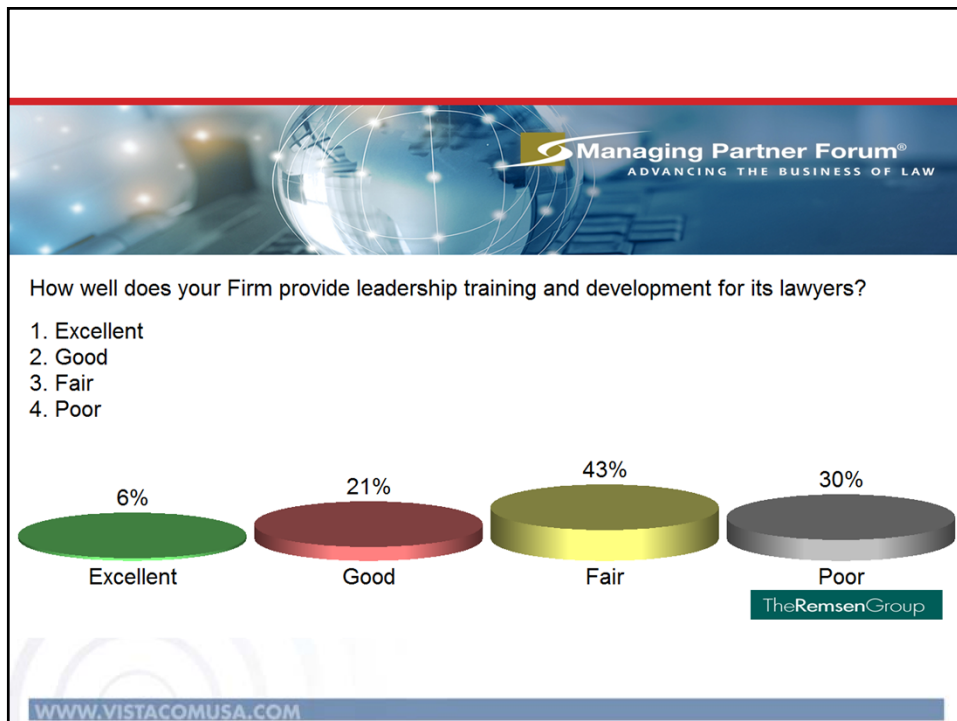
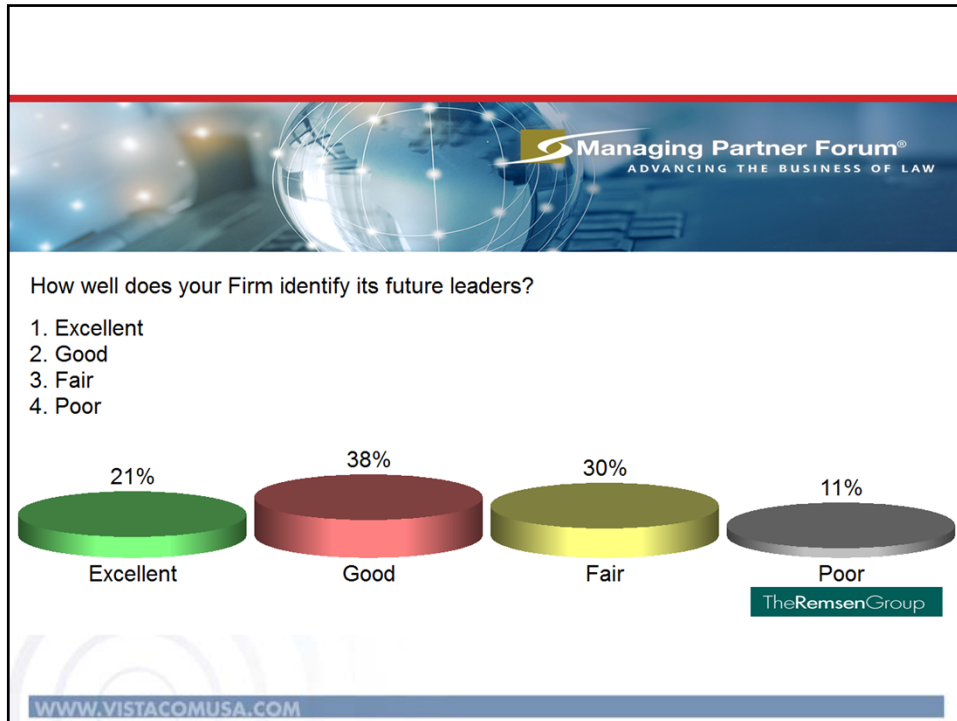
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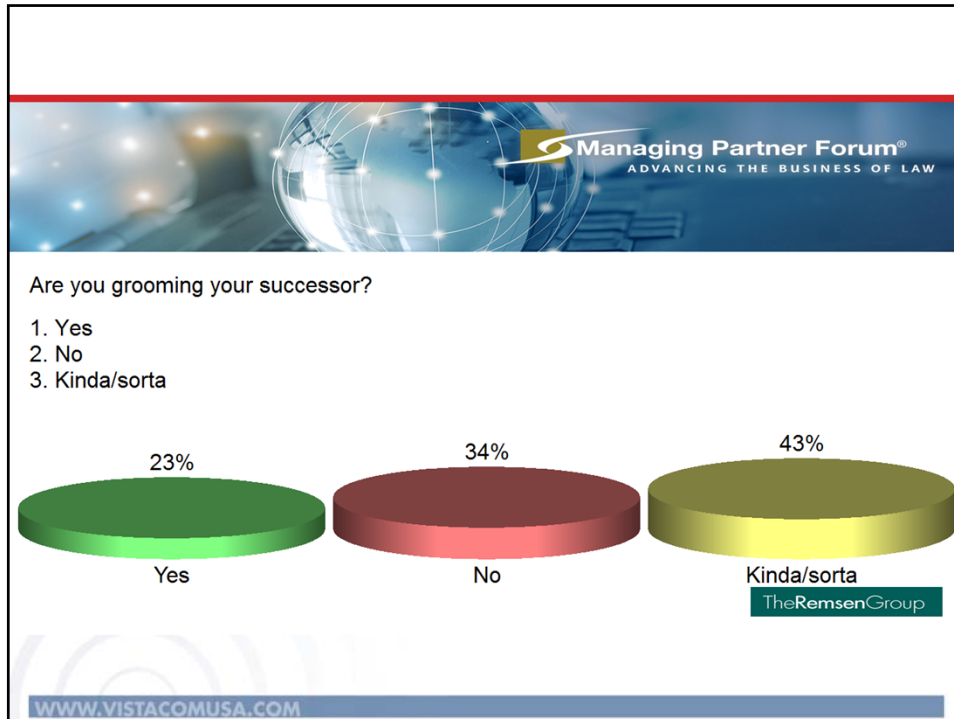
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MPF RECOMMENDATIONS

- **IMPORTANT QUESTION:** Is Yours a "Legacy" or "Mercenary" Firm?
- Build into Firm Culture by Having the Conversation Early and Often
- Identify and Groom Future Firm Leaders
- Implement Senior Attorney Succession Plans
- Consider Mandatory De-Equitization at 65-70 years
- Tweak Compensation System to Encourage Client Transition
- Put Proactive Succession Planning Practices in Place
 - Ownership
 - Governance
 - Client Transition
 - Compensation Implications



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QUESTION #1

**WHAT DO YOU SEE AS
THE MAJOR BARRIERS TO SUCCESSION PLANNING?**



BARRIERS TO SUCCESSION PLANNING

- Denial/Refusal
- Ignorance
- Procrastination
- Lack of Successor
- Compensation Systems
- Partner Agreements



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QUESTION #2



**WHAT ARE THE MOST EFFECTIVE
CLIENT TRANSITION STRATEGIES?**

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CLIENT TRANSITION STRATEGIES

- Open Discussion
- Supportive Compensation System
- Delegation
- Introductions to Clients
- Invite Clients to Make Referrals within Firm



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QUESTION #3

WHAT ABOUT COMPENSATION CONSIDERATIONS?



COMPENSATION CONSIDERATIONS

- Incentives for Retiring Partners
- Sunset Origination Credit
- Shared Matter Origination
- Beware of Formulas



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QUESTION #4

WHAT ARE YOUR THOUGHTS ABOUT MANDATORY DE-EQUITIZATION?

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MANDATORY DE-EQUITIZATION

- Healthy Firms Do It
- Weight of Over-Capitalization
- Pay Out Over Time
- Pathway for Younger Lawyers




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QUESTION #4

**WHAT'S BEEN YOUR EXPERIENCE
WORKING WITH YOUNGER LAWYERS?**



YOUNG LAWYERS

- Not Long-Term Thinkers
- Don't Always Understand/Aspire to Succession
- Need to See Future
- Compensation Issues
- Transparency



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ASSOCIATE RECRUITMENT & RETENTION



TOP SIX PERSONAL FACTORS FOR ASSOCIATES

- Work/Life Balance
- Collegial Work Environment
- Mentoring by Senior Lawyers
- Compensation
- Exposure to Clients
- Business Development Opportunities

Source: *Bright Insight* – Cushman & Wakefield



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TEN-YEAR GOALS FOR ASSOCIATES

- Partner at Law Firm - 48%
- In-House Counsel - 19%
- Not Sure - 19%
- Non-Legal Position - 7%


Source: *Bright Insight* – Cushman & Wakefield



Does your firm use psychological assessment tools as part of its hiring and recruiting process?




Response	Percentage
Yes, for both lawyers and staff	6%
Yes, for lawyers only	3%
Yes, for staff only	5%
No	86%





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MPF RECOMMENDATIONS


- Invest in "Soft Skills" of Young Lawyers (Mentoring and Associate Development Programs)
- Track and Reward Non-Billable Contributions
- Establish Two-Tiered Partnership Structure
- Develop Clear, Written Criteria for Partnership
- Employ Psychological Profiles to Onboard New Talent
- Implement Flex-Time Policies
- Regularly Provide Evaluation and Feedback
- Embrace and Celebrate Diversity
- Invest in Technology



CONTACT US

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SUCCESSION PLANNING: Protecting Your Firm and Client's
Legal Interests by "Managing the People"

DRI Managing Partners and
Law Firm Leaders Conference
Chicago, IL
September 6-7, 2018

Speakers:

John Remsen, Jr
TheRemsenGroup

John C. Trimble
Lewis Wagner, LLP

[This paper was first presented at the DRI "Women in Law" Seminar in February, 2016. It has since been presented to the Ohio State Bar Association, the Federation of Defense and Corporate Counsel, the FDCC/IADC Joint Law Practice Management Conference and the ICLEF Law Practice Management Conference.]

**Succession Planning: Protecting Your Firm & Clients' Legal
Interests in Times of Transition**

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Gretchen Koehler Mote, J.D. is Director of Loss Prevention for Ohio Bar Liability Insurance Company (OBLIC), a lawyers' professional liability insurance company, headquartered in Columbus, Ohio. She is a past President of the Ohio Association of Civil Trial Attorneys (the Ohio SLDO) and currently serves as the Chair of the OACTA Women in the Law Committee. She is an active DRI member who has served on the WITL Committee's Seminar planning and marketing subcommittees.

Debbie Riley is the General Counsel and Chicago Managing Partner for Quintairos, Prieto, Wood and Boyer, the nation's largest minority and woman owned law firm. She also serves as Chair of the Women Affinity group for QPWB. Previously, Ms. Riley was the Vice President of Claims at CNA where she managed the Health and Life Sciences claim department.

John C. Trimble defends catastrophic and complex litigation. He is the former managing partner of the 40-lawyer law firm of Lewis Wagner. He is the Immediate Past Chair of the Law Practice Management Committee of DRI, a recent Past President of the Indianapolis Bar Association, and he presently serves as vice chair of the Law Practice Committee of the Federation of Defense and Corporate Counsel. In his spare time he is a consultant and strategic planner for law firms.

Introduction

Lawyers as a group are fearless, ageless, and optimistic. We throw ourselves into our day-to-day work, and we prefer not to be bothered by anything that may distract us from our clients' cases. Many of us do not recognize the word *retirement*, and we assume that as long as our mind is intact, we can practice law as long as we want. Because we mostly practice in law firms, most law firms do not plan for the unexpected. Indeed, a recent study showed that less than 5 percent of law firms have any kind of succession plan in the event of the loss of firm leadership or firm rainmakers. (Sterling/Remsen, *Planning for the Future*, 2015.)

The reality is that every attorney can be sidelined by unexpected death, illness, or the death or illness of a spouse, child or parent. Life-changing events prompt lawyers to retire when retirement was not in the plan. Similarly, lawyers make life-changing decisions to leave private law practice to enter the judiciary, seek other public office, move in-house, or pursue personal business ventures. The reasons for succession planning are too numerous for this article, but the fact remains that all law firms and lawyers need to have a succession plan.

The first reason for succession planning is to protect the interests of our clients. The sudden and expected loss of a trusted advisor who understands the legal and business needs of a long-time client can be devastating and expensive for the client. Thus, clients should be concerned about the succession planning of their lawyers, and lawyers should be thinking about how their clients will be protected in the event that they are unable to continue representing the client.

A second reason for succession planning is to protect the interests of the law firm. The unexpected death or withdrawal of a law firm leader or significant rainmaker can be absolutely disastrous to a law firm. If the departing lawyer has been responsible for a significant percentage of the firm's revenues, then it is certainly possible (if not likely) that a law firm could have to lay off lawyers and personnel (or liquidate) in the event of the unplanned loss of a major player.

The younger, up-and-coming lawyers of a firm may be most vulnerable in the event that their supervisor or mentor is unable to continue practicing law. A comfortable and stable living can be turned into a short term or long term period of unemployment when lawyers and law firms have failed to plan for the unexpected.

This article seeks to address the array of fairly simple and sensible things that clients, law firms, and lawyers can do to plan for the expected and unexpected departure of a key leader or rainmaker.

General Challenges to Succession Planning

The first and most overriding barrier to succession planning is denial. Many lawyers and law firms simply do not contemplate the possibility of the sudden loss of a highly profitable lawyer, and for a variety of reasons, they do not anticipate a planned retirement of a senior lawyer. The lack of anticipation and planning means that lawyers and law firms frequently do not have *any* of the information they may need to react to a lawyer's death or departure.

Surprisingly, many law firms do not track or study the percentage of origination of revenue of their lawyers, so they may not understand the extent of the problem that may be faced by the loss of a lawyer's revenue. Depending upon the discipline of the firm, the firm may also lack clear information concerning the unbilled time, accounts receivable, and client fee agreements when the billing partner dies or leaves unexpectedly.

Conversely, a firm may be *so* origination driven that partners have been incentivized to hoard work to protect their client relationships from others. In those circumstances, the departing or departed lawyer may be the only person in the firm who has had a relationship with the client. It is an old and worn adage that "Clients hire lawyers, not law firms." If the departed or departing lawyer is the only person who had a relationship with the client, then it may be much more difficult for the client and the law firm to move forward with a new person handling the client relationship.

Financial considerations of a departing or deceased major rainmaker can be overwhelming to a firm. Frequently, partner agreements or state partnership laws may require immediate and long term payment to the departing partner or his or her beneficiaries. If the firm has not made provisions for the financial consequences of the death or departure of an attorney, the firm may be burdened beyond its means in pay-outs at the same time that the firm has lost the revenue of the attorney.

Factors That Bear Upon Client Relationships

In the defense business, there are many firms that have large institutional clients such as insurance companies and self-insured entities in which the firm has a "relationship partner" who oversees the account. In some instances, the relationship partner is the person who originally brought in the account and in other instances, they may be the person who has inherited the account and is doing the majority of the work for the account. Some firms will give all of the origination credit for the account to the relationship manager. Other firms encourage the account to call any lawyer in the firm who individual account representatives wish to use for a particular matter. In general, these types of large account relationships may be less impacted by a change in the relationship

partner. These larger accounts tend to be more metrics-driven, and their loyalty to the law firm may be based upon the firm's overall metrics score that is a product of the work of all of the attorneys who service the account. Firms may be able to be mildly less strategic in their planning for the change-over of relationship partners because the successor relationship partner may be readily apparent based upon the amount of work that the successor lawyer already has done for the account.

Whether an account is large or small, there are certain factors that almost always bear upon the relationship between the client and the law firm. These are factors that are inherent in the word "relationship" as it pertains to lawyer/client relationships. First and foremost, there is the issue of *trust*. The client will have developed trust in the subject matter knowledge, advice, predictability of outcomes, and billing practices of the firm. If a law firm has any hope of keeping a client after the death or departure of a senior attorney, then the firm will have to be positioned to continue to win the trust of the client.

Other factors that result in long term client relationships include excellent subject matter knowledge of the client's legal issues; knowledge of the client's business, needs, habits and decision-making protocols; a willingness and ability on the part of the law firm to be responsive, timely, and adherent to the client's billing and case handling guidelines; and, a history of successful outcomes and results.

The bottom line is that any successful succession planning needs to take into consideration most, if not all, of the above factors. In this competitive and changing legal environment, clients have many choices, and the glue to a long-lasting attorney/client relationship is all of the above.

Elements of Succession Planning

The Client's Perspective

Anyone on the client side of the attorney/client relationship has experienced the time and the cost associated with having to move a legal matter from one law firm to another. It is simply something that clients do not want to do. The challenge and cost of moving a matter is even more troubling when it occurs without much warning.

A clear starting point for attorney/client succession planning can certainly reside with the client. It is not only permissible, but it is perfectly reasonable for a client to inquire of its law firm's or attorney's succession plan in the event that lead counsel leaves, dies, or is incapacitated. All clients are concerned about the financial implication of "two-headed" handling of legal matters. They do not want to pay two or more lawyers to review or perform the same legal tasks on a matter. Nevertheless, the client is probably best represented by a *team* approach

to the handling of the client's matters. The client has great control over how the team will be constituted; the diversity of the team; the varying subject matter knowledge and talents of the team; and the client's guidelines as to how the team should bill and operate.

Ideally, a client will have a lead counsel who is responsible for the overall performance of the law firm's team, and there will be a second and slightly junior lawyer who may be available as backup in the event that the lead attorney is unavailable.

At a minimum, the client may wish to inquire as to whether the firm has other partner-level attorneys who would be available to handle the client's business on an interim basis in the event that a relationship partner is unavailable. Having another partner available then allows for the client and the firm to have the time to determine whether the firm will realign the client's team or whether the client will need to move the business to another, better qualified law firm.

As a part of the client's inquiries with the firm about succession planning, it is certainly within the right of the client to seek specific information about one or more of the following:

- Other substantively educated and experienced attorneys.
- The firm's billing policy with respect to the need for a new lawyer to get up to speed and take over a case.
- The firm's procedure with respect to appointment of new relationship partners.
- The question of whether the firm will allow the client to participate in the selection of replacement counsel within the firm.
- The financial wherewithal of the firm to carry on with the business in the absence of the departed partner.
- The diversity pool of potential successors

The Law Firm's Perspective

As a starting point, all firms of *any* size should engage in strategic planning every three to five years. That strategic planning process should include a short term and long term look at how the firm would respond to the expected and planned loss of attorneys and key law firm personnel. A good strategic plan that addresses predictable succession planning will address most of the concerns and fears presented by the possibility of the loss of firm leaders, firm rainmakers, and firm administrators.

As part of the management of any law firm, firm managers *must* understand the reality of "life cycles." All lawyers have life cycles that will vary from person to person depending upon their health, their family, their personality, their gender, and their background. Clearly, men and women may be

permanently or temporarily affected by the birth of a child, child rearing, special needs children, aging parents, accidents, other health issues, college tuition, personality, marriage/divorce, personal issues, career burnout, and work history. Enlightened law firms understand that the availability and productivity of lawyers will rise and fall depending upon life cycles, and good firm managers' account for those changes in life.

The following is a list of questions about issues that could impact a firm's client relationship in the event of the death or departure of a rainmaking or managing attorney:

- Does the firm track and understand the percentage of origination of revenue of each lawyer in the firm?
- Does the firm's partnership agreement (or other governing document) address how a partner's law firm share will be paid to a departing partner or the partner's beneficiaries?
- Does the partnership agreement provide a balance between the needs of the departing partner/partner's beneficiaries and the firm so that the firm is not strained or rendered insolvent by the departure?
- Does the firm have key-person life or disability insurance that may be available in the event of death or disability to bridge the financial needs of the firm and the departing partner or partner's beneficiaries?
- Does the firm have other attorneys who have the experience and subject matter knowledge to step in to handle client legal matters in the event of death or disability or departure of a lead attorney?
- Does the firm's compensation system incentivize rainmaking partners to share client relationships and origination with younger lawyers and successors?
- Does the firm have practice groups arranged around substantive practice areas so that a "team" approach to the subject matter litigation can be implemented?
- Are younger, up-and-coming lawyers encouraged and permitted to communicate directly with clients so that they become a part of the client relationship?
- Are clients advised of the names and contact information of lawyers other than the relationship partner so that the client can choose whether to reach out directly to other attorneys within the firm?
- Are younger lawyers mentored and trained to understand the array of factors that a relationship manager must know in order to establish the bond of trust and performance that will be suitable to maintain a client relationship?
- Are younger lawyers cultivated or encouraged to view themselves as successors to the firm's client relationships?
- Is the firm's structure of equity partners, non-equity partners, associates, counsel, and contract lawyers sufficiently balanced to allow for the right number of lawyers to rise within the firm to become successors?

- Has the firm engaged in conversations with the client concerning how the client relationship would transition in the event that the primary attorney was to die or be disabled or retired?
- Is the firm financially prepared to absorb the costs that may be necessary for successor attorneys to get up to speed on client matters so that the client does not bear the cost?
- Does the firm, in its hiring culture, give consideration to practice areas that may need to “grow” successors?
- Does the firm ask its more senior attorneys to advise the firm of the attorney’s retirement plans? If so, at what age does the firm begin asking, and how often does the firm ask?
- Has the firm studied the profitability of its client’s account so that it can determine whether it wishes to *keep* an account in the event that a partner dies, departs or retires?

The above list is anything but exhaustive, but these questions taken, as a whole, will enable the firm to study its succession issues in a way that allows for emergency or planned succession as the case may be. There is no ideal timetable for planning succession, but at least one expert has suggested that a firm allow at least five years for a planned retirement. (Sterling/Remsen, *Planning for the Future*, 2015.)

Individual Attorney Succession Planning

In the category of succession planning for individual attorneys, there are really two categories that bear discussion. First, there is the relationship/rainmaking partner who anticipates the day in the foreseeable future when he or she will want to slow down or retire. The other category is, of course, the up-and-coming attorney who hopes to step into the successor relationship.

Relationship/Rainmaking Attorney

The first and most pressing question for the relationship/rainmaking attorney is whether he or she has given *any* thought whatsoever about succession planning. If they have thought about it, then one would hope that a younger successor attorney is already being positioned to move into the relationship when the time arrives. Anyone grooming a successor needs to understand that it cannot occur over night. It is essential that the proposed successor be brought into the relationship with sufficient time to allow for trust to be established between the client and the attorney and to allow the successor attorney to understand the business needs of the client. It is a given that the successor attorney must have the subject matter knowledge and the skill to successfully handle the client’s work at a reasonable price with reasonable billings. Therefore, to the extent that a more senior attorney begins to anticipate retirement, some very open discussion and planning needs to take place between senior counsel and his or her successor. Once the timeline and planning for succession has been discussed, then it is

probably beneficial (if not essential) to bring the client into the discussion and to let the client know that a successor is on the horizon. Sometimes, the successor moves into the relationship seamlessly, and no discussion is even needed because the senior lawyer over time has allowed the younger lawyer enough contact with the client that the younger lawyer has become a defacto successor simply by progression of the relationship.

In firms in which origination credit discourages sharing of clients in successorship, then the retiring attorney and proposed successor are going to have to be involved in a conversation with the firm as to how the transition occurs. More times than not, the relationship partner is the one who is going to decide who the successor is going to be, but sometimes the firm will want to have some input, particularly if the selection of the successor will create controversy in the law firm. In instances where multiple potential successors exists, it may be imperative for the firm to be involved so that the retiring attorney is not burdened with choosing between one or more equally qualified candidates. In such a situation, the client should likely also be involved in the decision.

Proposed Successor Attorneys

A famous American politician, Oliver Wendell Holmes once said, “Destiny (opportunity) is a matter of choice not chance.” Not every law firm gives its younger lawyers the opportunity to craft a practice area or choose a client. However, it is well known in all walks of life that the persons who behave strategically in their career advancements will have a greater chance for success than those who let opportunities come their way.

If young lawyers aspire to be successors to a client relationship, then they must position themselves to be a successor. That means trying to be a part of the team that represents the client, and trying, in all ways possible, to develop client trust and respect and client awareness of the attorney’s involvement. Ideally, the opportunities to gain trust and respect are facilitated by the partner who controls the relationship. In those instances in which the relationship partner does not facilitate relationships among young lawyers, then younger lawyers simply have to credential themselves in the substantive area of practice, and they need to do all they can to be timely, responsive, and competent in the work they perform. They should take every opportunity that comes along for them to meet the client and make a good impression. In addition, they need to study all that they can in the public domain to learn as much as they can about the client’s business so that their representation of the client reflects the depth of understanding that they have of the client’s needs. With proper succession planning a client and firm may be able to place the successor candidate in-house for a period of time with the goal of learning the client’s business and people.

If given a choice between standing silent or letting the relationship partner know of the associate’s interests, it is likely best to error on the side of disclosing

long term interests in serving the client. One could hope that the relationship partner would already notice and recognize the potential successor's level of interest, but that is not always clear.

The bottom line is that no young lawyer is going to succeed to a client relationship unless they have done all of the things they can possibly do to demonstrate that they are worthy in all respects of moving into a closer client relationship role that could evolve into relationship partner.

Succession Challenges Unique to Women

A 2015 survey by the National Association of Women Lawyers (NAWL) demonstrated that over the last ten years, women lawyers have continued to lag behind male colleagues in being promoted to equity partnership and senior leadership roles within their law firms. They also continue to lag in compensation. This survey was taken of the top 200 AmLaw firms. This survey suggests that women will have a harder time gaining more senior relationship partner positions. The same challenges ring true for women who work in in-house positions. As women climb the proverbial "corporate ladder", the higher they climb the less diversity. Women continue to be left behind or be paid less than their male counterparts.

What does this mean for younger rising women in defense law firms? At a minimum, it demonstrates the need for women to be as strategic in their personal career plans as they can be. This is no time to sit on the sidelines or be shy. Women must clearly articulate to the rainmakers and relationship partners their career goals and seek feedback on their plans and results. Seeking feedback on progress along the way is critical. It may be uncomfortable on both sides of the fence; however, feedback is essential to development. Ask targeted questions. Instead of asking a colleague "how am I doing" a better question would be "can you suggest 2 – 3 things that may improve my results? Don't be defensive when feedback is delivered. Absorb, contemplate and remember, it's not whether the feedback is "right" or "wrong," it's the perception of others that matters most.

Much has been said and written about the differences between how men and women develop, cement, and maintain relationships. As the business and insurance world have become more metrics driven and more focused on diversity in the work place, there may be no better time than now for women who aspire to succeed to client relationships to position themselves. Long term, the quality of legal work, the consistency of responsiveness, and the demonstration of professional and substantive competence will earn the opportunity for younger female lawyers to gain successor client relationship opportunities.

It is going to be incumbent upon leaders, both women and men, to continue to push to lift up and mentor aspiring successors. Men should make note of the importance of gender diversity in law firm promotion and client succession. This will mean overcoming any lingering biases among male clients who prefer a

male relationship manager. It may require greater attention communication within the law firm and to communication with clients on client relationship matters. Above all else, it will certainly require a strategic approach to client development and client relationship succession.

It cannot be understated that women have the direct ability to positively influence the career growth of other women. But, it takes deliberate and thoughtful action. As you walk through your career you make choices daily that could impact others. Some examples include:

1. You are handling a matter for a client and you need to hire an arbitrator. Give thought to hiring a woman. Helping other women to generate revenue helps that person succeed.
2. You need a mediator: Make sure you are considering female mediators, especially those in a firm who are working on their own career development plan.
3. You need to retain local counsel for one of your files: look for a woman.
4. If you are an in-house corporate attorney with the ability to make hiring choices, make sure you have a diversity inclusion policy. As in-house counsel you literally hold the key to the success of several attorneys throughout the country. Use your key wisely! Even one assignment to a woman can be the grain that tips the scale.

In Summary

In summary, clients and law firms alike cannot afford to ignore the importance of succession in client relationships. With the disruptive innovation of the internet, competition for clients will increasingly be coming from new directions. Attorneys and law firms can no longer take client relationships for granted. They need to be pro-active within their law firms and their mentoring programs to bring a team approach to client management and to groom multiple successors for the inevitable day when the relationship/rainmaking partner will experience a life cycle change that will result in departure from the law firm or retirement. The lawyers who plan ahead and think strategically will be ready. Each one of us has the ability to positively impact the career of those around us. Take time to help others succeed in their careers. Developing succession plans can literally promote the career of individuals and ensure the financial longevity of a firm.

LEGAL MANAGEMENT

THE MAGAZINE OF THE ASSOCIATION OF LEGAL ADMINISTRATORS

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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

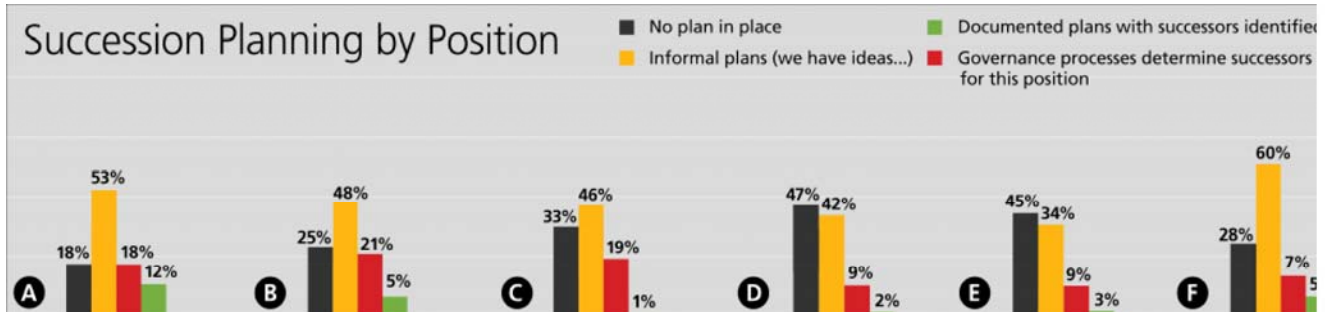
Longer range succession plans are helpful in managing the transition of a number of positions in a law firm. Most obviously, firms ought to have plans in place for the succession of leading lawyers, such as managing partners and chairs of executive/management committees. In addition, firms should have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

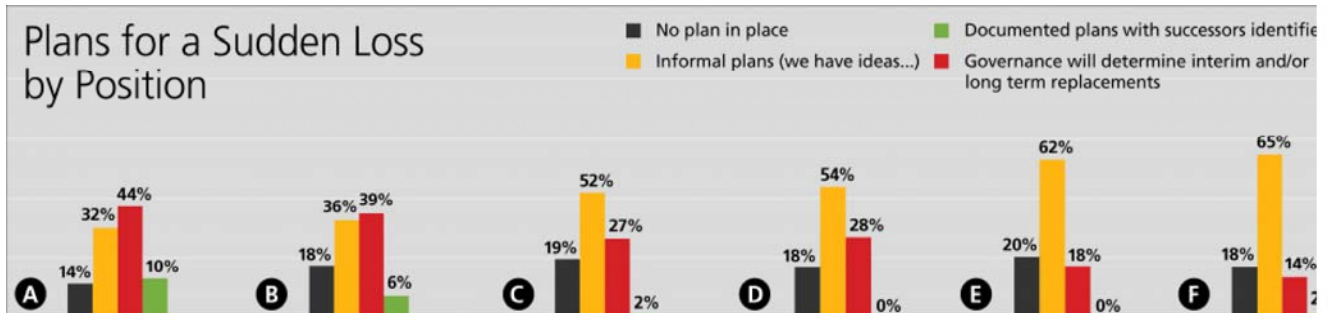
Generally speaking, longer range succession planning and transition should be managed over a period of years, not months. However, that is not always possible. At Wyatt, Tarrant & Combs, a 200-lawyer firm based in Louisville, Kentucky with six office locations, their managing partner stepped down suddenly 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?



A: Managing partner (or his/her equivalent)

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:

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

- 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

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

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.

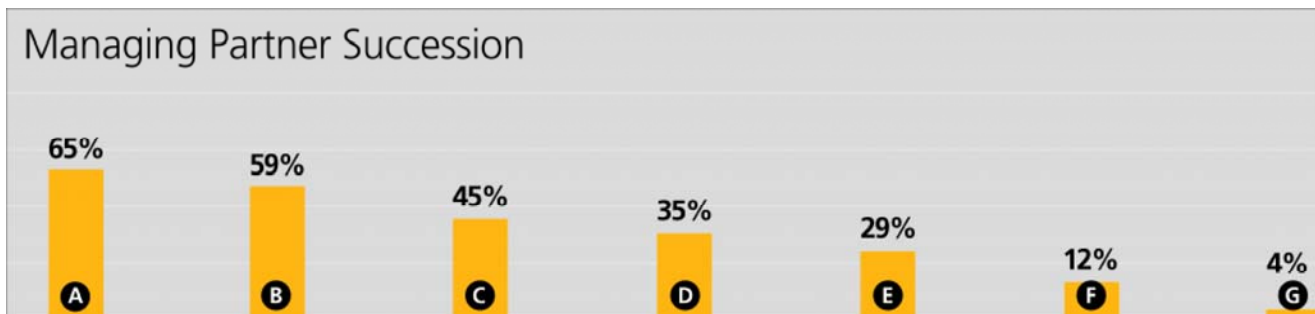
At Lewis Wagner, a 40-lawyer firm based in Indianapolis, Indiana, the partners elect a deputy managing partner who automatically steps into the role after serving as chair of the firm's executive committee for three years. "The committee has a clear mission, which is to monitor and advance the firm's 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:

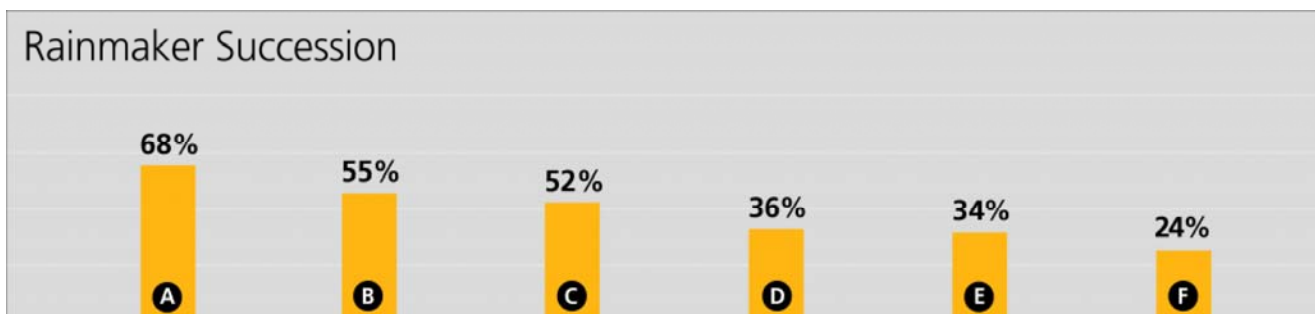
- *We have a senior attorney policy that requires each attorney aged 60 and older to file with the Management Committee each year a senior plan. The senior plan is to state what the attorney's plans for work are for the next five years and whether that plan includes scaling back and/or retirement. If 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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With an Eye toward the Future...

Isn't It Time that Your Law Firm Develops a Strategic Plan?

By John Remsen, Jr.

Today's law firm can either take charge of its future or sit on the sidelines watching the marketplace change around it.

In corporate America, virtually every successful company has a strategic plan guiding its future. Banks won't lend money without one. Shareholders and venture capitalists demand them. It gives an organization a competitive advantage.

Ask just about any managing partner or firm administrator whether his or her law firm should have a strategic plan and almost all of them would say "yes." After all, without institutional direction, the law firm is little more than a collection of sole practitioners sharing office space...or a "hotel for lawyers," as our friend Bill Flannery likes to say. Yet, according to a recent survey, fewer than 5 percent of the law firms in the United States have such a plan in place.

Why then, do so few law firms have a strategic plan? And what does it take for a law firm to develop and implement one?

What Is a Strategic Plan?

In short, strategic planning is a *process*, the result of which is a written document that sets forth where an organization wants to go and how it will get there. Many experienced law firm marketers suggest that a law firm's strategic plan should consider a five-year horizon. It should, among other things, state how big the firm will be, where it will have office locations, what its major practice areas will be, and what its client base will look like.

Once the firm's partners reach consensus on these big-picture issues, the firm can develop its three-year goals and objectives and then determine the strategies and tactics to achieve them. Strategies and tactics are more short-term in nature. They should be specific, measurable and achievable within a year.

If strategic planning is so important, why do so few law firms have a plan? The reasons vary, but the following obstacles are most common.

Denial that it's no longer business as usual

Despite everything one reads in *The National Law Journal*, *The American Lawyer* and just about every other publication on the legal industry, there is a continuing denial among many attorneys that the *business* of lawyering has fundamentally changed. Times are good right now and, generally, firms are doing quite well. However, it is the firms that long ago recognized the value of planning that are emerging as the new leaders in the global marketplace for legal services.

Focus on the short term

Strategic planning looks at the future, while most law firms have a very short-term view of the world. Compensation systems often reward today's billable hour, with little reward for non-billable time invested in the firm's future. That's very dangerous—shortsighted, to say the least.

Law firms need to measure and reward those activities—firm governance, associate mentoring and training, and business development—that are necessary to insure the firm's long-term prosperity.

Difficulty Establishing Consensus among Partners

No doubt, lawyers like their autonomy and tend to resist institutionalization. Many firms like to refer to themselves (with pride) as very democratic institutions. They operate very much like a collection of sole practitioners sharing office space. They want to be left alone. On top of that, there are often very different philosophies among the firm's owners about the future of the firm. So it's easier not to talk about it.

Certainly, getting everyone to buy-in to a specific plan is challenging. There is a tendency among lawyers and law firms to want to be "all things to all people." In this type of culture, lawyers often resist any plan to move in a particular strategic direction and toward a more institutional way of thinking.

Lack of leadership

Inevitably, the strategic planning process leads to change. And change requires leadership. Often, firm leadership is simply not willing to make the tough (and not always popular) decisions necessary to make the firm a stronger,



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more profitable institution in the long run. Managing partners and executive committees must realize that they can't please everybody.

Failure to implement

There are many firms that have made a half-hearted attempt at strategy planning and, for one reason or another, it has failed. The reasons are many and varied. Nobody seems to have the time to get things done. The plan exists, but it collects dust on a corner shelf. Inadequate resources were allocated to achieve the goals set forth in the plan. Or there was a lack of leadership. Or the plan was too ambitious. Or there was no accountability. And so on and so on.

The common refrain is, "We tried that, but it didn't work here." Chances are, the firm went through the motions, but there was never a genuine commitment to make implementation a priority. Without implementation, the planning process can be a frustrating waste of time, effort and money.

Keys to Successful Strategic Planning

Now that we've discussed why so many firms have not gotten around to developing a real strategic plan, let's examine the keys to making it happen.

Establish a sense of urgency

A sufficient number of lawyers in the firm must believe that it is no longer business as usual and that strategic direction is necessary if the firm is to survive and prosper in the years ahead. They must instill and constantly reinforce a sense of urgency that change is necessary.

Commitment from firm leadership

Firm leadership (or at least a critical majority) must have a genuine commitment to develop and implement a strategic plan. Without strong leadership and passionate commitment, it is still "business as usual," despite the rhetoric. Under these circumstances, the firm's efforts are doomed to failure.

Involve all partners in the process

At the end of the day, the owners of the firm must buy into and support the plan.

By involving each of them in the process through a series of one-on-one meetings and/or in a group brainstorming session, each partner will feel a part of the planning process. The likelihood of success jumps dramatically.

Associates and staff must also buy into the future of the firm. Special programs that enlist their support will add to the plan's successful implementation.

Keep the plan simple and focused

If the firm is developing its first strategic plan, it should keep the plan simple and focused. Most firms try to take on too much, too fast and wind up accomplishing little. With a realistic plan and by starting slowly, the firm is able to maintain its focus on the most important projects. The firm can always add to the plan later. A law firm is wise to start slow, publicize success and grow from there.

Create a plan that lives and breathes

Once a strategic plan is adopted, it does no good to set it aside, never to be looked at until the following year, if at all. The plan should be a flexible and dynamic instrument. Its principles should be incorporated into the firm's day-to-day operations. Firm leadership should communicate the goals and objectives of the plan often and in a variety of ways throughout the firm. Make sure everybody has a copy. Review it at internal meetings. Update it often. All important decisions should be considered in the context of the plan. If the firm makes decisions contrary to what is contained in the plan, it needs a new plan.

Establish accountability

Nothing happens without accountability. For most firms, this is best accomplished at monthly meetings of small groups (5-6 individuals) of attorneys, often organized by practice group. There must be a strong group leader and meetings should have an agenda and meeting notes. Assignments must be made and progress must be monitored.

Measure and reward desired behavior

Simply stated, the firm needs to measure

and reward desired behavior. If the firm wants its partners to spend time training younger associates, the investment of non-billable time in the firm's future must be measured and rewarded. If the firm determines that business development is important, it should reward it through recognition, origination credit, and/or by measuring and rewarding effort. Otherwise, behavior changes will not occur. Without incentives (or disincentives), it's business as usual and there is little change.

Does everybody have a role to play?

There is no right or wrong answer here, but the firm must determine up front if all of its attorneys have a role to play when it comes to investing in the firm's future. If so, what is the role of each attorney? What about associates? Is it the same for everybody or do we ask different attorneys to take on different responsibilities?

Making it happen

The strategic plan is not an end, in and of itself. It is a *process* through which a law firm contemplates its future and determines how it will allocate resources to take it where it wants to go.

Without implementation, a strategic plan is worthless. Planning should never replace and distract from the *doing* part of the equation. Implementation must be given the highest priority.

Conclusion

Many sole practitioners and attorneys at smaller firms seem to think that strategic planning is for larger firms. However, any firm with an eye toward the future can benefit from the process. Planning can help a firm develop consensus on key big-picture issues, promote internal communication within the firm, inspire attorneys to get out and do things they wouldn't otherwise do, and help the firm allocate its resources more effectively.

With leadership, commitment and a good strategic plan, any firm can develop a profitable practice working with clients it enjoys and in the areas of law it finds most appealing.

