

# Exit Strategies

*Succession Planning with a Purpose*

*IADC Midyear Meeting*

*February 12, 2018*

*La Quinta, CA*

# DISCUSSION LEADERS

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# MAIN GOAL TODAY

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To Help You Better Understand  
the Issues and Process for  
Successful Succession & Transition

# EXIT STRATEGIES

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*“Our society is facing a tsunami of demented attorneys; wandering around, bewildered, carrying briefcases that they’ve forgotten what to do with.”*

Kristi Vetri, *NEALA and Twilight Lawyers*, Nov. 2014

# FACTS ABOUT AGING LAWYERS AND SUCCESSION

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- 38% of Oregon attorneys surveyed plan to continue working part-time after age 65; 12% do not plan on retiring
- 52% of Minnesota attorneys say retirement is some age beyond 65; 10% reported retirement is some age after 75
- More firms are imposing mandatory retirement to encourage shareholder turnover (38% of firms according to a national survey) with a retirement age ranging from 65 to 72



# SUCCESSION GOALS

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- Provide for mutually beneficial, thoughtful and purposeful ending to career
- Manage risk to firm, individual and clients
- Increase likelihood client relationships are retained

# SUCCESSION GOALS (cont'd)

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- Identify future leaders/managers
- Effective communication among clients, senior lawyers and successor lawyers
- Provide compensation, if desired





# WHO SHOULD HAVE A SUCCESSION PLAN?

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- Every practicing attorney should develop a succession plan
- Anyone at any age can become ill, disabled or pass away
- It's not just for “old” attorneys!

# DEVELOP A SUCCESSION PLAN

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- Create now!
  - Every practicing attorney should develop a succession plan. Anyone, at any age, can become ill, disabled or pass away.
- Failing to develop and implement a plan to protect clients' interests in the event of death or disability not only raises ethical issues but can result in increased exposure to malpractice
- Make family members and others aware of your succession plan
- Talking about succession planning is not the same as addressing a plan

# EXCUSES, EXCUSES...

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- Aversion to planning
- Concern over lawyer retention
- Concern over client retention
- Lack of viable successor(s)
- Over-reliance on compensation systems

*Law Firm Succession Planning: Do One Simple Thing*  
Alan Olson, 2012

# WHY IS A SUCCESSION PLAN NECESSARY?

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- First and foremost for the protection of clients
- For the protection of an attorney's business
- Compliance with ethics rules

# ETHICAL RESPONSIBILITIES

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When read in conjunction, the rules below indicate that a lawyer should diligently prepare for the client's representation – under all circumstances

- MN Rule 1.1
  - Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation
  
- MN Rule 1.3
  - A lawyer shall act with reasonable diligence and promptness in representing a client

# MALPRACTICE AND SANCTIONS

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- Failing to protect clients' interests, even in the event of death and disability, also raises malpractice issues
  - Missed deadlines
  - Failure to complete tasks
  - Failure to timely pay insurance premiums
- Ill and sometimes even deceased attorneys have been sanctioned by courts for failure to protect clients or make appropriate preparations

# MAKE IT EASY FOR SOMEONE TO STEP INTO YOUR CASES

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- Make sure your personnel can easily produce a client and/or case list(s)
- Calendar all important dates diligently
- Thoroughly document all client files
- Keep your time and billing records up to date
- Do not keep any of your clients' original documents



# “BACK-UP” ATTORNEY

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- Qualifications to keep in mind:
  - Someone who is willing to come in, take control of the files, and protect the interests of the clients
  - Someone who could be the filter through which the client chooses whether to stay with the “back-up” attorney or to take his or her file to another attorney
  - Someone who, above all else, is someone you trust
  - Someone with a similar practice and good management skills

# CLIENT COMMUNICATIONS

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- If you are a sole practitioner, discuss in your initial engagement letter with your clients that you have a “back-up” attorney who will assist in the event anything happens to you
- Include a sentence that your client agrees to release confidential information to your “back-up” attorney in the event something should happen to you
- Explain this will best protect his/her legal rights and decrease the chance that his/her case would be neglected in the event of an emergency

# TRUST ACCOUNT ACCESS

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- Best practice is to use a plan that incorporates the safeguard of a triggering event
  - Upon occurrence of event, you have selected someone (such as spouse or other family member) to hold the power of attorney until they make the determination that the specific event has occurred
  - If you have an authorization for access to the account contingent upon an event, or for a limited duration, terms should be specified in a written agreement, and you should discuss this with your bank manager to confirm the bank will honor the agreement
  - Remember, a power-of-attorney expires at death so if you create a power-of-attorney that conveys to your back-up attorney all authority necessary to wind down the law firm, you will need to reaffirm in your will or codicil your desire to have the named back-up attorney wind down the law practice

# SUCCESSION PLANNING FOR RETENTION OF CLIENTS

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- Clients want you to groom your successor(s)
- Clients are rightfully concerned when no successor(s) are identified at an “earlier” time

# SUCCESSION PLANNING FOR RETENTION OF CLIENTS

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- Win-win for clients and your successor to meet before you are retiring
- Client or successor attorney may not be a good match and time is necessary to find solution



# SUCCESSION PLANNING

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## Selecting the Next Leader of the Firm

# DETERMINE CRITERIA FOR AN EFFECTIVE SUCCESSOR

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Has he/she demonstrated the ability to:

- Formulate a coherent and compelling strategic plan
- Manage the Firm's financial performance
- Appoint, train and retain future leaders (“talent management”)



# DETERMINE CRITERIA FOR AN EFFECTIVE SUCCESSOR (cont'd)

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Has he/she demonstrated the ability to:

- Direct Firm operations in an efficient manner
- Communicate clearly to all of the Firm's constituents
- Maintain positive relationships with the Firm's attorneys and staff
- Act as the face of the Firm to its clients and the community

Not: Biggest Book of Business, "Best" Lawyer or Most Senior Partner

# WEIGH THE CRITERIS – E.G.

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- Strategic Planning ..... 20%
- Financial Management ..... 20%
- Talent Management ..... 15%
- Communication Skills ..... 15%
- Firm Operations Overseer ..... 10%
- Relationship Builder ..... 10%
- Face of the Firm ..... 10%

# PREPARE MULTIPLE CANDIDATES FOR THE ROLE

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- Act as a leader of one of the Firm's practice groups, committees or offices
- Give him/her the mantle of leadership – authority, visibility and recognition
- Provide regular feedback to candidates
- Obtain an assessment from a third party experienced with the attributes of a successful law firm leader

# SELECT THE LEADER

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- Judge the performance of the candidates, using the same criteria as those used for selection
- Seek input from other Firm lawyers and staff and give appropriate consideration to that input
- Put person in place at least two years prior to stepping down from the role or retiring
- Be flexible and prepared to stay on longer than two years if necessary



# SUCCESSION PROCESS

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- Consider transition of control
  - Emotional impact
- Begin succession planning early
  - 5 to 10 years
  - Partner interest and timing
  - Team readiness
  - Ensure sufficient feedback
  - Client sentiment regarding succession
  - Be mindful of client succession & transition

# PAYING A PARTNER IN TRANSITION

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- Value retiring partner for the roles you mutually agree upon during transition
  - Use metrics appropriate to what the retiring partner **should** be doing
- Consider blend of current and earn-out compensation elements
- Retain flexibility to accommodate varying situations

# RETIRING PARTNER COMPENSATION OPTION

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- Example transition and tail follows
  - Production \$825,000
  - Business \$2,500,000
  - Margin on business 25%
- Five-year transition, five-year tail
- Tail pays reduced share of margin per schedule
- Assumes all business transfers and remains constant



# ILLUSTRATION – TRANSITION & TAIL

	Pre-transition	Transition years					
	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Total 1- 5
Personal production	\$825,000	\$750,000	\$625,000	\$500,000	\$375,000	\$200,000	\$2,450,000
Client revenue	\$2,500,000	\$2,250,000	\$1,590,000	\$1,050,000	\$620,000	\$210,000	\$5,720,000
Clients transferred		\$250,000	\$910,000	\$1,450,000	\$1,880,000	\$2,290,000	
Margin	25%						
Compensation	\$1,000,000	\$925,000	\$850,000	\$750,000	\$625,000	\$475,000	\$3,625,000

	Retirement years					
	Year 6	Year 7	Year 8	Year 9	Year 10	Total 6 - 10
Clients transferred	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	
Margin	16.0%	14.0%	12.0%	10.0%	8.0%	
Compensation	\$400,000	\$350,000	\$300,000	\$250,000	\$200,000	\$1,500,000

# Questions?

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