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The Next Generation: 8 Questions Small Law Firms Should Consider for Succession Planning

The oldest members of the baby boom generation began reaching retirement age in 2011. From that year until 2030, some 10,000 baby boomers will hit the [age of 65 each and every day](#). The aging of this massive generational faction has many implications for the legal profession, but one of the most significant is this: there is now a glut of law firms that are looking for a new generation of lawyers to fill the shoes of their founders. And a lot of those firms are unprepared for the task.



Indeed, fewer than a third of multi-owner firms have succession plans in place. It's a scary fact that should make a lot of people uneasy—the law firm leaders who want to retire with financial security, the younger lawyers who desire a path to greater levels of responsibility and compensation, and the clients that want uninterrupted legal service. The lack of a succession plan should be particularly concerning for smaller law firms. Developing a succession plan is more challenging for them than it is for a solo practitioner, who has the power to determine by fiat what their exit strategy will look like. At the same time, formalizing a succession plan will in many cases be more critical to small firms than it is for larger firms, which by definition have grown to a point where individual departures are not as likely to pose existential threats to the firm itself.

The idea of “succession planning” means different things to different people but includes at least two vital concepts. The first is the transfer of ownership from one generation to the next. At times, that transfer will come with a financial reward to the departing partner. Many small law firms are only now grappling with this issue, spurred to action by baby boomer founders belatedly planning their retirements. A second component of “succession planning” is the transfer of leadership in the firm. That process can be even more emotional, and harder to get right, than any decision about money.

Firms without any succession plans in place don't need to panic; at the same time, they should not delay thinking about what they want their futures to look like. Eventually, they can design a plan that makes the best sense for their circumstance, with an understanding that no two firms have the same needs. Below are eight questions for small firms to consider as they begin wrestling with the concept of succession planning.

1. Should our firm go on?

For those that loathe the idea of succession planning, here's a bit of good news: it's entirely optional. There are some situations in which it may make sense to call it a day when the leader or leaders of the firm retire. The firm can wind down its operations, its remaining lawyers can look for a merger partner or a sale of a practice can occur. Many firms will feel an imperative to continue the operation, but whether there are good reasons for doing so is a question worth asking. In fact, it is the first question that small firms should ask themselves as they begin their succession planning.

2. Do we have a governance structure in place?

The founding generation of a small firm may have gotten by without clear roles and responsibilities, but that's not a recipe for long-term success. If a firm is to last over time, it should have a clear decision-making structure. Most frequently, that takes the shape of the full partnership acting as a board of directors, a managing partner acting as an executive leader reporting to the board and individual partners reporting to the managing partner. The question of who to select as the future leader of the firm, of course, is a separate and equally important one. Speaking of which . . .

3. Who should we pass the torch to?

Determining the future leader of the firm is critical. It's hard to enumerate all the qualities a successor should have, but [New York attorney Bruce Stachenfeld](#) has identified some "do nots" for firms choosing future leaders. Don't split the job between two people; don't base the decision on billings; and don't pick a successor through a committee. Instead, he advises letting the firm's current leader make the choice.

4. Have we made smart hiring decisions?

It's much easier to execute a smooth succession process when a firm has a good generational mix of ages. If your firm has one generation of attorneys in their 50s and up, a giant void, and then a younger generation in their 20s and 30s, it may be time to consider hiring mid-career laterals to diversify the firm and establish a bridge from one generation to the next.

5. How are we going to value the firm?

A succession plan will probably require the firm to value itself—most likely, to determine the value of partnership shares being transferred between exiting and entering partners. Unfortunately, there's no simple answer to how to do this. Firms can attempt to value a firm by determining the value of its assets, and subtracting liabilities; they can multiply one year's gross revenue by a factor of x (for law practices, [one expert suggests](#) that the appropriate factor is between .6 and 1.0); or it can be based on an estimate of future cash flows, among other methods.

6. Does our compensation system align with our succession plan?

The firm should think hard about whether its compensation system gives its lawyers incentives that support its succession plan. A firm that is short on future leaders, for instance, will want to ensure that its compensation system rewards attorneys for taking on responsibility and demonstrating leadership quality. Likewise, if its client relationship partners are all older, it may want to deemphasize the financial reward that comes with that status.

7. Do we need a mandatory retirement age?

One factor that makes succession planning difficult is the reluctance of senior partners to give up control. When the 70-year-old lawyer in the corner office is

the firm's biggest rainmaker, it's hard to tell him or her to pass the torch. A mandatory retirement age can ease this process by effectively tying the hands of the firm and its aging partners. But there's an ageist quality to mandatory retirement ages, and some warn against applying too rigidly. "Too many firms are strict in their insistence of mandatory retirement dates as absolute," says [Michael Allen of Lateral Link](#). If there's no succession plan in place for the practice, he says, firms should relax the rule to allow "a transition period during which the lawyer could operate in a mentoring capacity."

8. Have we considered the tax implications of our plan?

Anytime money is involved, tax implications should be considered—probably by an outside tax lawyer.



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