



FAILED PROMISES, FAILED PLANS

Ellen Freedman, CLM
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A lot of solo and small firm attorneys are in a pickle. Plans for retirement which were carefully thought out and put into play long ago are falling apart. It seemed so simple. Where did it go wrong?

The strategy employed is not new. It involves bringing in a young lawyer, maybe a baby lawyer, and mentoring him/her. The plan assumes that the young lawyer with the right “stuff” will grow in skill and bedside manner, develop as a potential citizen of the firm, engender trust and respect from existing clients, and build his/her own book of business. When the time is right, the young lawyer will take over the firm and existing clients; providing the senior attorney with an exit strategy and ability to salvage some sweat equity.

For some firms one lawyer was to be successor. For other firms, there were multiple lawyers brought aboard and nurtured as potential successors. So what happened? Defection, that’s what. At many firms, just when the senior partner is about to pull the trigger on the beginning of retirement and transition, the “next generation” winds up walking out the door, often taking quite a few clients in the process.

Yes, it’s every lawyer’s nightmare. And it’s playing out, to the horror of the boomer generation, increasingly. I know, because I get the calls to help with the aftermath. Kind of like closing the barn gate after the cow has been stolen, ground up, and cooked! There’s little I can do at this point, other than to point out what probably went wrong, and how it could have been avoided.

Let’s take a walk down the path taken by many of these attorneys and see what went awry. It’s said that the path to hell is paved with good intentions. Never has the phrase been more apt.

The starting premise is a good one. With the best of intentions, attorneys were hired and led to believe that if they worked hard and developed the requisite skills, they would someday reap the rewards in ownership. Expectations were created.

The journey starts to veer off the path not too far thereafter. A number of factors combine to delay retirement of the senior attorney(s) significantly:

- Although intellectually prepared to retire at a certain age, when the time comes the attorney finds he/she just cannot say goodbye to a life which has been rewarding professionally and personally.
- A lack of hobbies and other interests makes retirement far less attractive than working.
- A hostile economic climate, coupled with a frequently extended need to financially support first and second families, pushes retirement age later and later.
- Good health and continued competence allow attorneys to be productive far later in life than originally anticipated.

As the next generation waits — patient at first, then less so — the “conversation” to realign expectations becomes increasingly uncomfortable for the senior attorney. It is avoided more than discussed. The next generation becomes discouraged, thinking their time will never come. They start to look at the hours they work, and the return on their investment. They start to calculate how much more they would earn if they were able to avoid having the majority of the profits they produce enrich the senior attorney(s). Resentment brews. After all, they have kept their end of the bargain. They have ever-increasing lifestyle expenses for their own families. Their own financial pressures exacerbate their resentment and impatience.

Another detour from the path occurs in the mentoring and transitioning process. Although the senior attorney hopes that the young protégé will develop into a skilled professional, there is also an underlying fear. What if the protégé is *too good*? What if clients start to prefer working with the young protégé instead of the senior attorney? Might the senior attorney become ineffective? Redundant? Might the young protégé leave and take those clients?

Yes, of course these are all risks. But it also becomes a self-fulfilling prophecy come to fruition by lack of faith. When fear and lack of trust cause the senior attorney to jealously guard client relationships and referral sources, it becomes clear to the protégé that there will be no real transition of the firm. Just hollow promises to some day “hand over” the keys to the kingdom, without adequate client relationships having been developed beforehand to ensure success.

So other than what the young protégé can create in his/her own book of



business, what “value” will be passed along? What will he/she be paying the senior attorney for upon retirement? The mentoring? The opportunity alone?

Let’s be honest about this. The senior attorney usually thinks that the young protégé should be permanently indebted with a high degree of loyalty for having been given a start to their career, and good mentoring. (I’ll assume that the mentoring was good, although experience shows that most young protégés are tossed into a “swim or sink” environment without benefit of much real training.) However, the reality is that the young attorney has repaid that investment many times over with the profits left on the table. Loyalty only goes so far before it is clear that the debt is repaid, and payback has become overdue.

In a recent conversation with an unhappy senior attorney who had just lost his long-time protégé, along with substantial clients, the attorney lamented that he was “almost at the point where he was ready to start reducing his hours.” How was he planning to go about that, I asked? Was he going to become of counsel to his firm, and allow the protégé to manage the firm, and take a majority ownership interest? “Absolutely not,” he responded, “it would drive me nuts to have someone else manage my firm. That won’t happen until I walk out the door for good.” Small wonder the young protégé left!

The bottom line is obvious. If you’re bringing in a next generation to take over the firm someday, you’ve got to keep that goal in mind as you walk down the path toward retirement. You have to be prepared to hand over the reins at a date certain. That doesn’t mean that you have to cease practicing. It doesn’t mean you become useless. But it *does* mean that you have to work with the next generation to purposefully transition client relationships, referral sources, and firm management. It means you have to trust the protégé. If you do right by your protégé, your protégé will have no reason not to reciprocate. After all, that’s why he/she got into the relationship in the first place.

Be open and clear in creating expectations. Keep the lines of communication open. And remember, when it comes to retirement and exit planning, you can be sure that if you fail to keep your promises, your plans will fail.

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