



PREPARING TO SAY GOODBYE TO THE BABY BOOMERS

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I didn't want to scare anyone with a title which read "Baby Boomers Dropping Like Flies" because that has more serious connotations. But the reality is that the Boomer generation is slowly beginning to depart law firms; either through death, disability, early retirement, or beginning the process of scaling back. And the trend just beginning will accelerate sharply in the coming years.

Many firms, regardless of size, have not prepared for this transition. Many have not even thought about it. Placing one's head in the sand works great for ostriches, but not so well for lawyers. The impact will be huge. And the impact will be felt at firms of all sizes; from large to small and solo. If you're one of the Boomers, you'll feel the impact, too. That is, assuming that your "short answer" isn't just to wake up one day and decide to close up shop and walk away from your sweat equity. What are the issues you must resolve? What should your firm be doing to prepare?

The issues will differ in some significant ways for solo and small firm practitioners, as will the solutions. The solutions now come easier at larger firms, because most have sufficiently institutionalized themselves to carry forward with a new generation of eager young partners. Those which had unfunded retirement obligations discovered long ago that the burden on the firm's continued viability was unacceptable. In fact, some firms imploded from the financial squeeze. Ironically, many firms which did *not* have retirement arrangements imploded as well because there were unrealistic expectations on the part of some senior partners. It was a sufficient wake-up call to cause many large-sized firms to rethink the whole retirement and transitioning process. And to subsequently rewrite partnership agreements.

Leadership & Strategic Planning

Large firms have actually gotten a lot better at this, and many well-managed mid-size firms have followed suit. Not necessarily because they have had better leaders

at the helm. But mostly because they've *had* to do so just to survive. By and large Darwin's evolutionary survival of the fittest has taken care of those large firms which were unable to effectively build this into the culture of the firm.

A firm has to have a "next generation" of leadership to carry on. So there must be a purposeful process to seek out those willing and desiring to do so, and then a process developed to actively train —groom— them in the leadership and business skills they will require. I know, I know, you're already thinking, "I didn't have any training, and I did just fine." I hear that all the time. But you know darned well that law firms today are not the same as law firms used to be. It's a highly competitive marketplace, a global economy, a buyer's market, lacking in employee or client loyalties, lacking in "face time" between partners, technologically sophisticated, with Rules and pitfalls in abundance.

Let's take just one important aspect of firm leadership and planning: managing partner compensation. This includes not only the methodology of divvying up the revenues, but also, for example, the manner in which the communications are handled. Any consultant will tell you that during periods of success and expansion, even the worst compensation scheme will look good and work well. But during lean times even the best compensation scheme will look bad and cause partner dissatisfaction. In the "old days" partners grumbled. Today, they're gone like a shot, taking clients and staff with them.

For these reasons and hundreds more, firm leaders need skills in an area not taught in law school: business and people management. There are a number of places to acquire these skills, and those interested should contact me for guidance in locating them. As far as finding a visionary— a true natural leader—well, there are consultants to assist the firm in developing a collective vision, if the firm has no visionary at the helm.

The smaller the firm, the harder it is to find that next generation, and hold onto them. If you read my last article entitled "*I Had a Dream*" you know the vulnerability you have, and the many challenges you face in this regard. I was shocked at how many firms contacted me quietly to ask, "Is it *my* firm you're referring to?" So don't go into this with the attitude "He/she is lucky to have this opportunity," but rather with an attitude that shows you're lucky to have someone you can groom for this responsibility, and you're going to do everything possible to ensure his/her success.



Revenue Generation

Do some financial projections which map out the rainmaking growth of your young generation of partners, and the growth on the expense side. As the Boomers scale back and retire, will the firm remain a viable financial entity? Do younger partners understand the dollars and cents and know the extent to which they must step up to the plate? Are they prepared to do so? Are you *helping* them prepare to do so? Again, this is a different world, and just because you were able to build a book of business in different times doesn't mean you'd be able to do it starting from scratch today. I frequently hear that from partners, admitting that they're so fortunate to have been building their practice during those expanding market years when clients were plentiful and competition limited.

Some lawyers—and consultants, I might add—believe that marketing is an inherent skill that one either has or doesn't have, and cannot be taught. I very strongly disagree with that line of thought. As long as a desire exists to learn, marketing skills can indeed be taught. That doesn't immediately translate into making everyone a rainmaker, but it does mean that combined efforts can accomplish the task.

What is your firm doing now about making marketing part of the culture of the firm? About making it a criteria which weighs in compensation? In doing so, you can help spark the desire to learn. Are you teaching your attorneys how to create realistic individual marketing plans that conform to the firm's vision, and then holding them accountable to follow them? Are you providing opportunities to learn and progress? By that I mean that when you teach a baby lawyer on the professional side, you first start with assignments which help them hone their skills. Research. Drafting. Review and summarization. Repetitive "cookie cutter" work. Then move them as quickly as you can to more challenging assignments. The same should apply to marketing skill development.

If you don't know yourself what the proper transitional steps are to help young lawyers develop and hone these skills, you have merely to ask. Call or write, read a book, engage a marketing consultant, attend a high quality educational event geared to marketing legal services. Be prepared. If it's high quality the chances are there may not be CLE credits involved, at least not here in PA.



Transitioning & Servicing Clients

An attorney recently discussed with me a law firm environment where associates and even junior partners were not permitted to call another attorney's client, even if doing all the work on a matter. This is an extreme example of a protectionist policy taken to its most paranoid nth degree. Yes, there is always a risk that if one permits a client to develop relationships with other attorneys at the firm, that attorney might defect and take the client, or even stay and take the client. After all, it's the client's decision to decide who will do their work.

On the other hand, the desire to maintain total control over the client relationship can backfire. With no one else at the firm to transition to, if the client and originating attorney have a falling out, the client will definitely be lost. If the originating attorney dies, becomes impaired or otherwise disabled, the client will likely be lost. And when the originating attorney decides to retire or significantly scale back . . .you got it, the client will likely be lost. That is, unless the originating attorney has made sufficient effort to purposely involve other attorneys at the firm in servicing the client, and in developing supportive relationships with the client.

I recommend that all attorneys approaching retirement be required to spend at least a year beforehand helping other partners at the firm develop servicing relationships with clients. In truth, more time is really required to discover whether those new relationships are beginning to gel properly. Sometimes it takes a while to find out when they do not. In that case, there has to be time for the originating partner to take the client "back" and slowly introduce an alternative servicing partner.

Retirement Funding

How are the Boomers going to pay for retirement? Has your firm offered a retirement strategy in the form of a defined contribution, money purchase, 401(k) or other retirement vehicle? Will you phase them out in an "of counsel" position where they can continue to enjoy some fruits of their many years of rainmaking? Are everyone's expectations realistic and shared? Have they even been discussed in detail? Are they spelled out in the partnership agreement?

Is there a continuing role that the Boomer can play for the firm as a senior statesman? Or is it better for the firm to make a clean break so that the next generation can take the ball and run with it? Sometimes those who have really



retired but still hang around delight in playing “Monday Night Quarterback.” The criticism and comparison to predecessors can make even the staunchest flinch.

File Retention

Who will have responsibility to maintain the hundreds or thousands of files you have accumulated over the years? Who will make sure clients know where to go to get them if need be? Who will make sure they are destroyed after a sufficient time has tolled, without destroying documents that must be returned to the client, or for which the client must otherwise consent to being destroyed no matter how much time has elapsed?

For many, this remains one of the biggest challenges. For many firms no language has been built into the firm’s engagement agreement to establish realistic expectations regarding file retention. No purging was done at the time files were closed. There is no written records retention policy. Some clients cannot even be located.

Staffing

Don’t forget that many of those Boomers preparing to retire are your staff members. Unfortunately for you, there is not a sufficient supply of up-and-comers available to be hired. For those of you who will be left to practice law once the Boomers depart, you should be thinking now about how you’re going to work leaner, staff-wise, than you ever have before. Not because of the economic sensibilities, but because it will become increasingly difficult to find and retain high quality staff.

Answers will have to be found in more effective use of technology *by* lawyers, not just *for* lawyers. Improved systems of knowledge management will be necessary. More progressive human resource policies will come into play. Dipping deeper into the candidate pool, and making up the difference in more extensive training, will be required.

Solos and Small Firms

What if you’re at a very small firm, or are a solo? You have challenges ahead, my friend. Mid to large-size firms can more easily deal with these issues. So you need to think about them now. You can’t wait until the eve of the date you want to retire to make these decisions. Trust me, I get those calls all the time. You need to plan ahead.



In all likelihood, as a solo or small firm practitioner, you will either need to become of counsel to a larger firm, which can carry on your work and pay you for some of your equity as you transition clients, or you will need to sell your practice. These are the two methods to salvage your sweat equity. This doesn't happen overnight. Creating the right strategic alliance takes time. Finding a buyer for your practice takes time. And you certainly don't want to wait until your practice has seriously declined.

One of the errors entrepreneurial owners often make, be it in law or some other industry, is to wait too long to sell. Usually one of two reasons prevails. First, a belief that the business is worth far more, or will ultimately be worth far more than it can be sold for at present. Second, an emotional attachment to ones business. It's like a child. Hard to sell for sure. As a consequence, most owners wait far too long to sell. By the time they are ready to do so, a good deal of the value has been lost.

I am frequently contacted by young attorneys who are seeking to purchase a practice, or become affiliated with a senior attorney who is approaching retirement. The problem is, they just can't figure out how to be put in contact with the right match. How will you effectively let these attorneys know you are "out there" and interested when the time comes to start looking? Can your local or state bar association help?

As usual, I feel that I've weighed in more heavily on the side of asking questions and identifying issues than in providing solutions. To attempt to offer solutions given the myriad of facts and circumstances any particular attorney or firm may face, would be impossible in the space of a short article. Fortunately, individualized help is readily available. I encourage you to start with a call or email to my office.

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