



Is It Possible to Transition a Small Law Firm?

Many firms have substantial and dramatic personnel changes in their horizon. How well they respond to these changes will greatly determine their future success.



Successfully transitioning a small or midsized law firm from one generation to the next is difficult for many reasons. In our experience, we have found the *top challenges* to include:

1. Senior partners who need money
2. Lack of any post-retirement plan
3. Clients do not like change
4. Lack of developed attorneys to assume client work
5. Differing priorities and timelines of the remaining partners
6. Lack of firm profitability
7. Retirements can cripple or even end a firm
8. Inadequate time to transition
9. Greed and selfishness
10. Spent a lifetime building it, and it pays top dollar now. Why give it up?
11. Lack of policies and processes to address transition issues
12. Lack of appreciation for going concern value

One or more of these factors can affect the success or failure of a transition plan. In fact, a firm's very survival may depend on how well it overcomes the challenges of transitioning the firm. Addressing the relevant factors early in the process typically leads to more options.

We will address each of these factors separately on the following pages.



1. Senior partners who need the money



Senior partners who, for whatever reason, are not fully prepared for retirement may not have the flexibility to transition at the optimal time for the firm. As retirement age nears, partners in this situation may even decide to consolidate their staffing and increase their personal contributions to client work. The two main reasons for this behavior

include maintaining relevance to clients and maximizing compensation. As we are talking about smaller firms, a senior partner's client base may have critical importance to the firm. Strong measures such as mandatory retirement typically don't work.

After evaluating the viability and economic impact of the practice post-transition, we suggest considering a compensation agreement with the senior partner that incents involving other capable lawyers at high levels in client accounts. Conceptually, the partners who will receive long-term benefits from the retiring partner's clients agree to take less compensation for a defined period of years until the transition is complete. Again, smaller firms typically do not have the economic resources to support a transition that is underwritten by the firm.



2. Lack of any post-retirement plan

Successful lawyers invest countless hours building a reputation, maintaining a client base, and staying professionally sharp. Many have so intertwined their business and personal lives, that retirement represents a major challenge to their emotional stability.

It is difficult to address these situations because they are typically not money driven. In fact, some will take less money to enable a longer career. Other partners find themselves in an awkward position of having to tell a senior partner that it is time to retire.

In some instances, proactive senior partners may seek outside help to assist them with a process for identifying post-retirement opportunities and challenges. Many, however, do not, and put their partners in a difficult position. It is also difficult for younger partners to appreciate challenges of the aging process and how attitudes change as a career window begins to close.

The best advice that we have is to start talking about the transition process before retirement age is imminent. For example, a written set of policies addressing the retirement process with **work-life timelines** is a start. Process steps must accompany the timing intervals.

WORK-LIFE TIMELINES

Work-life timelines force law firm partners to evaluate their client relationships, professional contributions, and possible successors. Read more here: [Work-life Timelines Post](#)





3. Clients don't like change, and if they do change, they may decide to look elsewhere



This situation always reminds me of the Godfather movie where Al Pacino laments *“Just when I thought I was out, they pull me back in.”* Long-term client relationships can become complex and come with a sense of duty. At times, it is difficult to align the timing of retirement with a client's priorities.

Clients in this situation will strongly resist a retiring partner's efforts to introduce new lawyers into the relationship. They may even search elsewhere for a suitable replacement and start splitting their work among the existing law firm and a potential suitor firm. Essentially, trying out new counsel without confusing the relationship with their existing counsel.

When clients resist the honest efforts of the senior partner to introduce new lawyers into the account, the firm must assess the viability of the client relationship post-retirement. Some client relationships don't transition.

Other tactics can include planned absences on the part of the senior partner, early discussion of the retirement process, participation in selecting post-retirement counsel, and economic incentives to encourage clients to cooperate.



4. Lack of developed attorneys to assume client work

This situation is typically a failure on the part of the senior partner and on the firm. Sometimes luck can factor into it, but it is usually not hard to relate most staffing deficiencies to prior decisions or inaction. Much depends on the culture of the firm, which mostly reflects the partners' values.

A central question is whether or not a partner has the right to wreck client relationships that he or she previously developed and still manages. It is almost always inadvisable to involve clients in the internal shortcomings of the firm.

Firm short-sightedness can also contribute to a lack of high-quality and trained attorneys. It is not unusual for firms to try to force solutions with available, but less qualified lawyers. For example, lawyer A needs work, so lawyer A is the solution. Firms that think this way damn themselves to mediocrity, and make it easier for better-staffed competitors to take the business.



In these instances, firm's are forced to try to find solutions in the lateral market, which is spotty at best. The best way to avoid a lack of quality resources is to commit to a recruiting program, replace attorneys who do not fit, implement a practice planning process, and work on the culture of the firm.



5. Differing priorities and timelines of the remaining partners

Many small firms start when a group of like-minded lawyers with similar goals decide to collaborate. Many of these firms were also set up as income generators with minimal investments in strategic staffing, branding, marketing systems, and work product processes and workflows.

High billable hours for partners and other timekeepers are also prevalent in income generation focused firms. There is nothing wrong with this model; many of these firms enjoy better than market pay for the partners. A challenge comes for these firms, however, when key firm members approach retirement. Many entrepreneurial lawyers cannot stand the thought of ending their careers by merging into a larger firm, and also don't want to preside over the demise of the firm they helped create.

Differences in priorities typically occur when age gaps exist among small groups of partners. Younger partners may want to make longer-term investments to support the perpetuation of the practice, but senior partners (who typically have the most significant share of the firm's debt guarantees and withheld capital) have shorter investment horizons.



Other issues can occur when a firm tries to solve transition issues with a fast track lateral hire. It is typically difficult to suddenly admit a new partner to assume the role of a retiring senior partner. Working through differences in priorities is a negotiation process and usually involves a compromise. Younger partners may have to trade short-term compensation, and senior partners may have to take on additional short-term risk.



6. Lack of firm profitability

A lack of profitability makes any situation more difficult. It limits options available to firms and places pressure on partner relationships. Depending up the severity of the profitability issues, partners may conclude that the firm has run its course. When this occurs, an eventual breakup follows, and partners seek different opportunities.

Firms with less severe issues should seek to improve operating results and then proceed with a transition plan. For example, separating unproductive lawyers and staff, reviewing the profitability of client relationships, and assessing the competitive necessity of operating expenses is an excellent first step.

The ability to payout 85% or higher of a partner's contributed profits is one benchmark for assessing market competitiveness.

Other priorities include implementing market competitive compensation systems, performance expectations, and progression standards. In our experience, performance improvements and policy implementation take about a year to return benefits.

Profitability issues limit options available to firms and places pressure on partner relationships.



7. Retirements can cripple or end a firm

Firms suffering the most risk from this challenge are those with only a couple of originating partners or only a few significant clients. These firms are typically not suitable transition candidates. Firms must take steps at least five years in advance of critical retirements to remain viable.

Taking these steps will result in the following :

- **Work life time-lines and transition plans**
- **Strategic marketing plans for all lawyers**
- **Increased visibility of firm's future firm leaders**
- **Market competitive compensation plan and policies**
- **Marketing strategy for firm's reintroduction to the market**
- **Hired lawyers who ensure firm's medium-term viability**
- **Modernized core service delivery systems of the firm**
- **Communication of transition plan to key clients**
- **Diversification of firm's practice areas**

As mentioned previously, these strategic investments take time, and in our experience, it takes five years to change the perception of the firm in the market. The accompanying investment needed to effect this type of strategy may conflict with individual partner priorities, which creates another level of complexity.



8. Inadequate time to transition

Of all of the challenges, we face when working on transition plans for a client, a compressed schedule is commonplace. Transition planning involves several uncomfortable issues, contemplates future events, and never seems to work its way up the list of daily priorities. When retirements become imminent, critical younger people consider leaving, or when clients become concerned, transition planning becomes a priority.



Firms with competitive economic results, quality lawyers and staff, and sound systems have a better chance of a successful transition on a compressed schedule.

Firms that wait until external forces create pressure can lose control of the transition process, and the consequences can include an unraveling of the firm.



9. Greed and selfishness

Disguised as something else, resistance to making what for others is rooted in greed and selfishness. As management consultants who like to think that solutions exist for every problem, selfish behavior often ends up in a conflict between partners and ultimately that end of the firm.

For some, what happens to the firm at the end of their careers is not a concern. The goal was always to make as much money as possible and get out. Transitioning the firm is for others to worry about and partners who think in these terms rarely help. It is particularly difficult when self-centered partners have substantial books of business and firm can't survive without this work. About the only tactic short of dissolving the firm, it to come to an economic agreement that pays the partner out over time. To be clear, I am not suggesting that partners who leave books of business to others should not receive compensation, but anticipate a much tougher negotiation with greedy partners.



One best practice that can help is to create a transition compensation model in advance of retirements. Firms who accomplish this step at least have the benefit of a starting point and parameters for future negotiations.



10. Spent a lifetime building it and it pays top dollar now, why give it up?

Difficulty “getting out” while a law practice is performing at a very high level is difficult. Lawyers can spend a lifetime building a practice enduring all of the highs and lows, and it is not hard to understand the inclination to keep practicing full-time. Especially for partners who are healthy, in demand and have high market value.

Thinking on this level, if one is not careful, can become a close cousin of greed and selfishness. It is further complicated when a partner is not financially prepared for retirement. Everyone’s philosophy about preparing for retirement is different. Some worry about having enough money to live comfortably, some have concerns about leaving an estate, some have special needs, and the list goes on.

What is more complicating is when younger partners don’t want or are not prepared for a senior partner to fully retire. This seemingly new appreciation for senior partner value, which seemed elusive for most of their careers, creates a powerful attraction and can feel like a new lease on life.



Grounded partners realize that fortunes can change in a day, and have the self-awareness and forethought to anticipate retirement and to create a timetable that is best for all concerned. As mentioned previously, preparing for retirement can include disciplines that go beyond management consulting.



11. Differences in appreciation of going concern value

Perhaps an overused phrase in the current law firm lexicon is "platform value". Platform value really relates going concern value. Founding partners often concern themselves with going concern value. They remember all too well the sacrifices they made to start the firm, keep it successful and growing, and creating value in the marketplace.



Junior partners often believe that founding partners, by virtue of compensation differences, claims for going concern value are inflated. Who is right is often a matter of degrees. While founding partners in an entrepreneurial firm typically draw a multiple more of compensation than junior partners, their compensation is often supported by their performance. When it is not, junior partners have a point.

It is an oversimplification to view the value of creating firm value solely as a compensation concept. Assessing the value of reputation, legal contributions, risk, systems and processes, and management contributions are often overlooked when considering going concern value.

For many, it comes down to the cost of moving a practice or starting a new firm compared to paying founding or key senior partners for going concern value. Additionally, assessing the competitiveness of the going concern factors is equally important. Just because a firm is a certain age does not in itself create value. If the firm's personnel, systems and process, and reputation have fallen behind, some may decide that a new start is a better option.



12. Lack of policies and processes to address transition issues

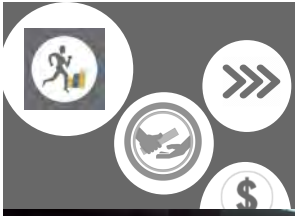
Advance preparation is essential to a successful transition planning. We recommend that clients begin to consider the elements of perpetuating the firm five years in advance to the first retirement. In addition to providing adequate time to prepare the process steps, policies, and guidelines, it is an opportunity for successful partners to begin the process of considering their basic approach to retirement. For example, slowing down and phasing out or walking away at a certain point.

We recommend that clients begin to consider the elements of perpetuating the firm five years in advance to the first retirement.

To ensure that a firm is prepared to address retirements in an orderly way, we recommend the following plan components:

- Process parameters and expectations
- Worklife timelines and capacity planning
- Marketing plan
- Attorney development
- Recruiting process and needs assessment
- Compensation and incentives
- Policy and guideline development
- Partnership/operating agreement provisions
- The orderly transfer of equity
- Financial plan and capital account policies
- Building going concern value
- Approach to valuing the firm
- Implementation timeline and support

Using a deliberate process that includes an implementation timeline is the best way to ensure that a firm is prepared to address retirements when they occur and that expectations are met.



Transitioning a small firm is possible but is typically difficult. Advance planning and process development can significantly improve a firm's ability to transition. Forward-thinking firms recognize the complexity of successfully passing leadership and clients from one generation to the next. Avoiding retirement discussions will only lead to an increasingly anxious workforce and create an opening for competitors.

Who is PerformLaw?

PerformLaw is a management consultancy based in New Orleans, LA. PerformLaw regularly assists law firm clients with transition planning, marketing and business development, contracted business services, compensation, lateral vetting, performance and process improvements, and practice planning.

For a complete list of services and helpful resources, please visit performlaw.com.



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