Succession Planning

Rewarding Senior Lawyers

|| By Roy S. Ginsburg ||

Succession planning is a hot topic at many law firms. That should come as no surprise, with successful baby-boomer rainmakers starting to retire in significant numbers. A critical component of any firm's succession plan is figuring out how to retain the firm's best clients when the lawyers who developed those relationships ride off into the retirement sunset.

Law firm consultants frequently observe that succession planning works best when retiring senior lawyers receive the proper monetary incentives to transfer clients' matters to other lawyers in the firm. Put another way, don't penalize senior lawyers for slowing down in a manner that ultimately benefits the entire firm.

But before you can gain a better understanding of how to reward your senior lawyers' efforts, you must first identify the key players and requirements of the succession process.

The key players

The roadmap to successfully transferring clients' matters from a senior lawyer to a junior one is pretty simple. An examination of the basics illustrates the importance of factoring money into the transition process.

First, the soon-to-be-retired lawyer must self-identify (admittedly, this is often much easier said than done). He or she must then create profiles for the more significant clients. The profiles should include an explanation of key working relationships, noting whether any clients may change based on succession, and an analysis of the type and extent of past legal work and the clients' anticipated future needs.

Next, determine who in the law firm is either ready to step up to the plate or can be readied with proper mentoring and training. The usual suspects are often lawyers who have

Fast Facts

Don't penalize senior lawyers for slowing down in a manner that ultimately benefits the entire firm.

It will likely take extra, nonbillable time for senior lawyers to train and supervise successor lawyers and help build a relationship between successor lawyers and clients. That time should be recognized in some fashion if firms want it done well.

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already done work for the clients. It's also a good idea to get input from the clients; they may have preferences you should properly consider.

Start the transition

Once you know the players, it's time for the transition to begin. Two things must happen.

First, make sure the successor lawyers can perform the work competently. This could take as little as a few weeks (if the lawyers are experienced and have worked with the clients before) or as long as a few years (if the lawyers lack the necessary skills). In the latter case, the senior lawyer may have to substantially train the successor lawyers or supervise the work during the transition.

Second, make sure the successor lawyers have already developed a rapport with the clients if they have worked together in the past or are capable of developing it over time. This, too, can take weeks or years. If you ignore relationship building—which often involves a certain amount of socializing—client loyalty could be jeopardized.

Both steps in this process have a major commonality: it will likely take extra, nonbillable time for the senior lawyer to handle the training/supervision and the schmoozing. Some situations may require a lot of time.

Paying for transition efforts

Here's where the seemingly simple process of transferring clients' matters can fall victim to the vagaries of human behavior and money. The first issue to consider is to what extent, if at all, the senior lawyer should receive compensation for nonbillable time.

Clients today are more sensitive than ever about paying for training. But if you can't bill the client, do firm leaders expect the senior lawyer to do the training for free? And what about the socializing? Who wants to spend time wining and dining clients when you won't be around to reap future rewards? For many senior lawyers, institutional loyalty goes only so far.

Besides the nonbillable time issue, there's the even bigger problem of how to compensate senior lawyers for traditional billable work during the transition. Law firms usually pay partners based on a formula. At most firms, the two most important components of that formula are billable productivity and origination.

As junior lawyers do more work for a senior lawyer's clients, the senior lawyer's billable hours will naturally decline. But there is danger in taking away too many hours too soon unless you make adjustments to the productivity component of the senior lawyer's compensation. In other words, don't be surprised if your senior lawyer hoards work instead of transferring it.

As for origination, most firms reward lawyers for originating clients in their compensation formulas; the range is usually 10–25 percent. Who gets the origination credit for work during the transition? Will it go to the junior lawyers? Should it be shared with the senior lawyer during the winding-down process? If you provide credit to the junior lawyers too soon, where's the incentive for the senior lawyer to aid in the transition?

Ways to pay for transition efforts

It should now be apparent that law firms must reevaluate how they pay senior lawyers when transferring clients' matters. Law firm leaders should make sure they reward senior lawyers for being good team players when their efforts are successful. This may be accomplished in several ways.

One way to pay for transition efforts is to devise a new compensation formula for senior lawyers. You can change the percentages contained in the formula or even add components such as marketing and training. Or you can create a bonus based on attaining certain measurable milestones. The milestones could include factors such as revenue and nonbillable efforts.

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Who pays?

Now comes the $64,000 question: if a firm wants to make sure senior lawyers have proper motivation to follow the client-transition roadmap, where does the money come from? This is where the rubber hits the road.

The best place to start in determining who pays is to ask, "Who benefits?" The answer will vary depending on the firm's compensation policy. For firms with an "eat what you kill" philosophy, the primary beneficiaries will be the junior partners inheriting the clients. Those lawyers will ultimately receive origination credit for transferred matters.

One way for a junior lawyer to "pay" a senior lawyer is to accept less origination credit for the client's billings for an agreed-upon period. In other words, keep paying the senior lawyer some origination even when his or her involvement is minimal or nothing. After all, if the transition goes smoothly, the junior lawyer is gaining an important client and potentially obtaining a major revenue stream for years to come. What's wrong with having the junior lawyer pay for that stream in the short term?

Firms that distribute profits more evenly among partners would do well to recognize that all partners benefit from a successful client transition. Partners should consider taking a reduced share of profits during this time. By earmarking those set-aside profits for the senior lawyer, the partnership stands to benefit from a steady stream of future profits long after the senior lawyer is gone.

You get what you pay for

It's unrealistic to expect effective client transitions during succession planning if you don't address compensation issues head-on. For clients who have historically provided significant profits for all to share, there should be enough money to go around during a transition. This encourages and rewards behavior that law firm leaders want to see in their soon-to-be-retired lawyers.

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