Succession Planning: Rewarding the Senior Lawyer

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Succession planning works best when retiring senior lawyers receive the proper monetary incentives to transition their clients to other lawyers in the firm.

Succession planning is a hot topic at many law firms today. 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 to figure out how to retain the firm's best clients when the lawyers who developed those relationships ride off into retirement sunset.

Law firm consultants frequently observe that succession planning works best when retiring senior lawyers receive the proper monetary incentives to transition their clients 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 about how to reward your senior lawyers' efforts, you must first identify the key players and requirements of the succession process.

THE KEY PARTIES

The roadmap to successfully transitioning clients from senior lawyers to junior ones is actually 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 mini-profiles for the more significant clients. The profiles should include:

- an explanation of key working relationships, noting whether any of the clients themselves may change based on succession; and
- an analysis of the type and extent of legal work done in the past and what the client will likely need in the future.

Next, you determine who in the law firm is either ready to step to the plate or can be made ready with proper mentoring and training. The usual suspects are often lawyers who have already done work for the clients. It is also a good idea to get input from the clients; they may have preferences that you should properly consider.

START THE TRANSITION

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

First, make sure the successor lawyers can do the work competently. That could take as little as a few weeks (if the lawyer is very experienced and has worked with the client before) to as much as a few years (if the lawyer lacks the needed skills). In the latter case, the senior lawyer may have to do substantial training/supervision of work product during the transition.

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

Both steps in this process have one major thing in common: It will likely take extra, non-billable time for the senior lawyer to do both 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 transitioning clients can fall victim to the vagaries of human behavior and money. The first issue to consider is to what extent, if at all, senior lawyers should receive compensation for non-billable time.

Clients today are more sensitive than ever about paying for training. But if you can't bill the client, do firm leaders then 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 even be around to reap future rewards? For many senior lawyers, institutional loyalty goes only so far.

Besides the non-billable time issue, there's the even bigger problem of how to compensate the senior lawyer 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 lawyers hoard work when they are supposed to transition it.

As for origination, most firms reward lawyers for originating clients in their compensation formulas; the range is usually 10-25 percent. Who now gets the origination credit for work during the transition? Will it all go to the junior lawyer? Should it be shared with the senior lawyer while he/she is winding down? If you provide credit to the junior lawyer too soon, where's the incentive for the senior 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 transitioning clients. Law firm leaders should make sure that they are rewarding senior lawyers for being good team players when their efforts are successful. There are several ways to do that.

One way to pay for transition efforts is to devise a new compensation formula for the senior lawyer. You can change the percentages contained in the formula or even add new 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 non-billable hour efforts.

If adjusting formulas and creating bonuses for achieving milestones sounds too complicated, you can simply track the hours and pay a mutually agreeable hourly rate to the senior lawyer. This would presumably include time for marketing efforts, including socializing, training and mentoring, as well as any other agreed-upon activity.

WHO PAYS?

Now comes the $64,000 question: If a firm wants to make sure the senior lawyer has 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 upon the firm's compensation policy. For firms with an "eat what you kill" philosophy, the primary beneficiary will be the junior partner inheriting the client. That lawyer will ultimately be receiving origination credit for the transitioned client.

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

Those firms that distribute profits more evenly among the 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 the transition. 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 is unrealistic to expect effective client transitions during succession planning if you do not address compensation issues head on. For clients who have historically provided significant profits for all to share, there should be enough money to spread around during a transition. This will encourage and reward the behavior that law firm leaders want to see in their soon-to-be retired-lawyers.

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