

SUCCESSION PLANNING AND COVID-19

It's now or (possibly) never



By ROY S. GINSBURG

The covid-19 pandemic is a red alert for elderly solo and small law firm owners to put a succession plan in place if they haven't already done so. Unpalatable and difficult as it may be, it's time for practicing lawyers in their 60s or 70s to acknowledge their mortality and forge a plan.

Which mindset has held you back from making a plan?

Do any of these rationalizations sound familiar?

■ You've been unable to save for a rainy day and your savings are woefully inadequate for retirement. All you have time to think about is paying the bills.

■ You love what you do. All you have time to think about is closing the next deal or winning the next case.

■ You hate what you do but you fear the unknown of retirement. You follow the mantra, "better the devil I know than the devil I don't." All you have time to think about is how you detest change.

■ You don't see yourself as a strategic thinker and often say to yourself, "Everything has worked out fine so far, so why bother now?" All you have time to think about is how fortunate and lucky you've been.

■ You believe you're indispensable to so many people: your family, clients, staff and community. All you have time to think about is how fortunate and lucky these people are to have you in their lives.

■ Your identity is so wrapped up in being a lawyer you can't imagine going through life in any other way. All you have time to think about is how the law has been—and will always be—your only true love.

The real victims of your paralysis

If any of the foregoing rings true for you, you've fallen victim to succession planning paralysis. This paralysis doesn't only harm you, however. Let's examine who will suffer the consequences should you become seriously ill or die without a plan in place.

■ **Your spouse or significant other.** If you're a solo, do you want your grieving spouse to make decisions about what to do with active cases and the future of your firm? Your spouse is likely not a lawyer. They aren't qualified to do this type of work under the best of circumstances; they certainly aren't under circumstances laden with emotion.

■ **Lawyers and staff at your firm.** These will be the people on the front lines, along with your heirs, making the crucial decisions you should have already made. They may not be as burdened by emotion as your heirs, but they will likely be burdened by a lack of competence.

■ **Clients.** Are you one of those lawyers who has been preaching for years how much you care about your clients? Well, how much care are you showing when you leave no guidance about who should handle their pending and future matters? By failing to plan, you're forcing your clients to fend for themselves and secure counsel—possibly counsel you've never liked or trusted.

■ **Heirs.** You've already named the people in your will to receive the rewards of your successful career. If you're a solo, do you want the value of your firm determined in a "fire sale" atmosphere? If you're an owner who works with other attorneys and you don't have a buyout in place, your heirs will likely get nothing for the firm's value. Instead, the value will probably accrue to the firm's other lawyers—at no cost to them and no benefit to your loved ones.

I'm not going to lie to you; getting old sucks. But facing your departure from practice now and taking steps to protect what you've created is necessary. Failure to do so is a sign of selfishness, pure and simple.

Stop getting consumed by all the reasons you find to keep practicing law. Otherwise, there's no avoiding the train wreck ahead.

Take control now to decide the future of your practice

Planning your exit doesn't necessarily mean you'll be unable to practice law. Depending upon the plan you create, you can continue to practice. Will the circumstances be the same? Probably not. Will the benefits be the same? Not likely. You may lose flexibility, earn less, or even have to take orders from someone else. But at least you will have had the final say in how your practice lives on.

Are you planning to fail?

Winston Churchill once said, "He who fails to plan is planning to fail." Without a formal succession plan in place, a failure to plan during one's later years will inevitably bring anguish, distress, and despair to the people you've loved and cared about during your career. They deserve more from you. You deserve a better legacy. Stop planning to fail and get started on your law firm succession plan today. ▲

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