Succession Planning: The Myth & The Threat

In today's legal environment, Succession Planning is a Myth to lawyers under 55 years old and a Threat to lawyers over 55 years old.

Stephen Mabey, CPA, CA
Principal & Managing Director

Background
In 2015 Altman Weil Inc conducted a survey and drew the following conclusions on the percentage of firm revenue controlled by partners aged 60 or older:

5% - 10%	Succession planning is not critical yet unless key clients involved.
15% - 25%	Retiring partners will impact the bottom line. Start planning a systematic transition process.
30% - 40%	Retiring partners could damage the firm's prospects. Begin actively managing transitions now.
Over 40%	The firm may be captive to its senior lawyers. Immediate intervention is required.

Going back several decades, the typical lawyer was younger than today. In 1980, the median age for all U.S. lawyers was 39. That's more than seven years younger than the median age of 46.5 in 2021. The number of new entrants is not having any impact on the "graying" of the bar today (no comparable data readily available for Canadian lawyers, but reasonable same occurrence is happening).

It is fair to conclude that lawyers are practicing longer with their firms, and given that many (if not most) firms' compensation systems do not encourage/reward the transition of clients, the percentage of clients controlled by partners over 60 has increased.

...lawyers are practicing longer with their firms...

The Managing Partner Forum ("MPF") conducts an annual Law Firm Leadership survey which includes a question on the priority leaders should give to succession planning and a follow-up question on how much of their time is devoted to succession planning. In the past several years, the former is 10%, and the latter is 5%.

Yet, if you talk to many lawyers, there is a genuine concern about the continued retention of clients due to a lack of community of interest between the law firm's client contact and the client's personnel who authorize the retention of a law firm(s).

Considerations for Developing a Succession Plan
Actual succession planning requires the consideration of multiple factors, including the following:

- **Client involvement** – Clients are the lifeblood of any law firm, so their needs and satisfaction should be a priority when planning for the future. Ways they can be involved include:
    - Open and Transparent Communication: Clients should be informed about the firm's succession plan and how it may affect their ongoing legal matters;
    - Feedback and Input: Gathering feedback from clients can help shape the succession plan. It is valuable to understand their expectations, concerns, and preferences;
    - Building Relationships with Successors: Clients should be given opportunities to establish relationships with the lawyers who may handle their matters in the future; and
    - Flexibility and Patience: Ideally, clients should be willing to adjust their expectations and be patient during the transition. Succession plans involve change, and it might take time for new lawyers to become thoroughly acquainted with a client's legal matters.

- **Identifying future leaders -** Some firms actively identify and groom potential successors from within their ranks. They are assessing the skills, capabilities, and leadership potential of associates, partners, and other key personnel to identify individuals who possess the necessary qualities to fill leadership roles in the future.

- **Mentoring and development programs -** Engaged firms implement mentor and develop programs to provide aspiring leaders with growth opportunities. These initiatives involve pairing high-potential individuals with experienced partners or retired senior lawyers who can guide and mentor them. Firms aim to nurture the next generation of leaders through these programs and develop their skills and knowledge.

- **Knowledge transfer -** To ensure a seamless transition, these law firms prioritize knowledge transfer from retiring partners to successors. This transfer involves documenting critical information, client relationships, and institutional knowledge that future leaders can pass down. Firms leverage technology, such as knowledge management systems, to capture and store this valuable information.

- **Succession planning committees -** Law firms serious about executing a successful succession plan establish dedicated committees or task forces to oversee succession planning efforts. These committees work closely with leadership and HR departments to implement strategies, identify potential successors, and address any challenges or gaps that may arise during the succession process.

- **Retaining experienced lawyers -** Recognizing the value of experience, law firms are implementing measures to encourage experienced lawyers to stay and mentor the next generation. Steps include creating flexible retirement options, offering part-time or consultancy roles, or providing specialized projects that allow senior lawyers to continue contributing while gradually stepping back from full-time responsibilities.

- **External recruitment -** Besides focusing on internal talent development, some law firms consider external recruitment for leadership positions. They may seek candidates with unique expertise, a fresh perspective, or specific industry knowledge to further enhance the firm's capabilities.

- **Financial considerations -** Succession planning involves financial considerations, particularly in compensating retiring partners for their equity and facilitating a smooth transfer of ownership. Law firms are exploring various models, such as phased equity transfers, deferred compensation arrangements, or establishing internal funding mechanisms to support these transitions.

Failure to Execute
No absolute rocket science is involved in developing a successful succession plan, yet, few firms claim to have a successful integrated plan.

So what stops the brighter-than-average people found in law firms from achieving success? In an adaptation of an old saying, *"An excuse by any other name is still an excuse."* Here are five consistently found explanations firms use to rationalize their failure. (not in any particular order):

- **Inertia or aversion to planning -** Historically, things have worked out over time; we've never had to plan this before; we're busy enough with the day-to-day pressures of serving our clients and running our business without worrying about what might happen.

- **Concern over lawyer retention -** We have highly productive seniors at the top of their profession, and they are not receptive to discussing phase downs, transitioning their clients, or becoming lame ducks - we don't want to antagonize productive partners.

- **Concern over disrupting our clients -** We've been going above and beyond to retain and serve our clients and be wholly reliable and responsive; if we broach the topic of transition, we are, by definition, raising the prospect of change and potential instability.

- **Lack of viable successor(s) -** Our next-in-line, or our next generation, might not have the high-level expertise, client and industry knowledge, or the requisite "fire in the belly" to take the baton.

- **Over-reliance on compensation systems -** Our (formulaic or subjective) compensation system provides for decreasing compensation as individuals reduce production—therefore, our transitions are already dealt with.

Moving Forward - A Re-think Required

Words matter! Because of the negativity associated with "succession planning," we must change the descriptive phrase to "legacy planning." A simple legacy definition is *"a situation that has developed due to past actions and decisions."*

The desired situation is a firm's continued growth and prosperity long after your departure. This scenario will only happen due to partners taking direct actions to institutionalize clients and their relationship with the firm on an ongoing basis.

This scenario can be accomplished through the adoption of a client understudy program.

Typically, an understudy program allows aspiring lawyers to gain practical experience by working alongside experienced lawyers. It will enable them to learn about the intricacies of the legal profession, observe courtroom proceedings, participate in legal research, and engage in various legal tasks under the guidance of a mentor.

The steps taken to execute a client understudy program include:

- Client relationship partner identifies the clients to be involved in the program and the lawyer they have determined to enter into the understudy program for each designated client (participation not restricted to just partners).
- This schedule is submitted to the firm's management for vetting (to avoid overloading individuals and ensure appropriate client coverage).
- The client relationship partner is responsible for explaining the program to the client and obtaining their buy-in.
- The existing client relationship partner develops a plan to build a relationship between the designated understudy and the client organically, with natural progression. This relationship does not mean the understudy charges time on files but understands it is an investment in their future.
- The existing client relationship partner provides periodic updates to management on how the understudy program is progressing.
- When appropriate and with the client relationship partner's approval, the firm's management will check in with the client to obtain their input.

The beauty of starting this program well before any perceived retirement is that it is the least threatening way of ensuring a continued relationship between the firm and its clients.

The spirit of a client understudy program is captured in the quote attributed to Eric Burdon.

"I want my legacy to exist now, not after I'm gone."

Who is Stephen Mabey?

Stephen Mabey is a CPA, CA, and Applied Strategies, Inc.'s Managing Director. His credentials include the following:

- Fellow of the College of Law Practice Management (one of 19 Canadians);
- Author of Leading and Managing a Sustainable Law Firm: Tactics and Strategies for a Rapidly Changing Profession, and Key Performance Indicators An Introductory Guide (Amazon);
- Over 25 years in a senior management role with Stewart McKelvey, a 220-lawyer, six-office Atlantic Canadian law firm;
- Over 14 years providing advice and counsel to small to mid-size law firms on a broad range of issues;
- A panelist and facilitator of the Managing Partner Information Exchange ("MPIE") at the annual Managing Partner Forum Leadership Conference held in Atlanta, Georg

each May;
- Runs a group mailing list that circulates articles, directly and indirectly, impacting law firms.

Stephen has advised law firms on a wide range of law firm issues, including - strategic action planning, leadership, understudy (succession) planning, business development, capitalization of partnerships, partnership agreements, lawyer & staff engagement, marketing, key performance indicators, competitive intelligence, finance, mergers, practice transitioning, compensation arrangements, organizational structures, and partnership arrangements.

Stephen can be reached by email - at smabey@appliedstrategies.ca or by phone at 902.499.3895.

Comments or Questions?

Go to our Article Index

Applied Strategies, Inc.
COMMON SENSE APPLIED

Print PDF Version