

Succession Planning



Al Frederick
Eccleston and Wolf, P.C.



Question I'd like to ask



☞ But will rephrase:

☞ Do you know someone who does not have a will?

You need to start there



- ❧ Offspring
- ❧ Significant others
- ❧ Your decisions as to your assets

You already have a plan



- ❧ It stinks
- ❧ It's called a 'Conservatorship', and it's run by the Bar Counsel whose sole concern is to protect your clients
- ❧ Whatever money comes out of that (usually none) goes to pay expenses

When to start?



- It's never too early
- 15% of the U.S. population is age 65 or older
- In 5 years that number will be 22%
- The 'baby boomer' lawyer generation is aging and needs to consider what effect that has on their clients and themselves



Retainer agreement as a tool for planning

- ❧ File retention policy – how long are you willing to store closed files
- ❧ What arrangements are there, at the conclusion of the matter, to return materials to the client
- ❧ An agreement for another lawyer to assume responsibility if you are unable to continue for any reason (vacation, illness, emergency) – name the lawyer and explain why he/she is a good choice



Some additional thoughts

- ⌘ Just in case there is an issue on paying your fees, have the client grant you a lien in the retainer agreement, satisfies one of the elements for a charging lien (if necessary)
- ⌘ Caution the client on posting materials, advice, thoughts from you on social media and the effect that may have on the attorney client privilege of confidentiality

Client files – thoughts for today and tomorrow

- ☞ Where and how are files being stored, that problem will diminish in the future with electronic files and electronic storage, but most lawyers in their 60's have majority paper files
- ☞ How about a doomsday list?

The Doomsday list



- ❧ The notion is to create a list that someone could use in an emergency situation to keep things afloat
- ❧ client list
- ❧ location of your insurance policies (malpractice, b.o.p., auto, etc)
- ❧ Client file location and names of those with access
- ❧ Computer password/encryption
- ❧ Financial information, location of accounts, records, check books and list of those authorized to sign

Doomsday list



- ❧ List of key contacts, names of support staff, addresses, phone numbers, email address
- ❧ Location of safe deposit box and location of key (have the access list with the bank include your emergency contact)
- ❧ How to generate bills
- ❧ An office manual (if one exists)
- ❧ Credit card information

Retirement thoughts



- ❧ Sale of a law practice, 19-301.17
- ❧ Restrictions on the rights of a person to practice law, 19-305.6

Sell a practice



- ❧ Obviously this requires finding a buyer, could be a younger lawyer who wants to learn and then acquire the practice
- ❧ Not unusual for the buyout to be funded by fees generated from the acquired practice, as received
- ❧ By way of example, xx% paid during the first year, and then reduced by a percentage over the next 3-5-7-10 years depending on the negotiation

The contract



- ❧ May require the 'selling' or 'retiring' lawyer to remain for a period of time to help transition clients to the new firm
 - ❧ May be associated with salary or some additional compensation
 - ❧ Couple of objectives:
 - ❧ The good will and assistance of the selling lawyer in keeping the clients happy with the successor
 - ❧ The need to avoid competition (19-305.6)
 - ❧ Additional income to the selling lawyer who may want to gradually wind down

Professional advice



- ❧ The 'sale' of a law practice may involve tax issues, and the proposed contract should be reviewed by a competent person versed in both business and tax
- ❧ There may be ethical ramifications to the transfer — clients need to be given appropriate information regarding the transfer and their options

Thoughts for acquiring a practice

- ☞ Phone number
- ☞ Web site
- ☞ Employment Agreement with seller---19-305.6
- ☞ Lease
- ☞ Trust Account
- ☞ File Storage
- ☞ Malpractice insurance

Firm Merger



☞ Insurance

☞ Malpractice

☞ B.O.P.

☞ Leasehold

☞ Website

☞ Trust Accounts

☞ Pending or past AGC experiences

Some Retirement thoughts

- ❧ Extended Reporting Endorsement on Professional Malpractice policy, aka 'the tail'
- ❧ Contracts which you have:
 - ❧ Copier/scanner
 - ❧ Telephones
 - ❧ Advertising – web based and otherwise

More thoughts



☞ Your Attorney Trust Account

☞ Zero it out, if you cannot, there need to be arrangements made – after all this is not your own property